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A: Didn't have the opportunity.

Investigative Note:

Though Sergeant Davis stated he did not have time to make a telephone call, he described several activities in which Mr. Sharpe engaged. In Sergeant Davis' two interviews (CID and Internal Affairs), he described how Mr. Sharpe looked out the hotel room window three times while standing back in the room in an attempt to conceal his identity, walked back and forth between the hotel room door and a stairwell, and went down the stairwell to get into a waiting vehicle. Additional time elapsed due to Sergeant Davis losing sight of the vehicle before finding it again. Sergeant Davis did not make a telephone call to Investigator Trowbridge but also did not inform the Consolidated Dispatch Agency (CDA) he was present with a murder suspect. Sergeant Davis' first transmission to the CDA regarding this incident was his request for assistance at the Marathon Gas Station with a suspicious vehicle and people. [Exhibit 8]

In the same CID interview, Sergeant Davis described the manner in which the suspects' vehicle picked up Mr. Sharpe from the hotel. Sergeant Davis stated, "The sedan came more head on, so that yes- as the sedan would come through the parking lot the driver's door would be to the building. He turned into the open area the uh, available to him in the parking lot, to point into the stairwell area so the front grill was pointed towards the building. The gentleman who I believed to be Hudson came out the stairwell, into the parking lot and entered the passenger side of that vehicle." Sergeant Davis also stated once the sedan pulled up, Mr. Sharpe "beat feet for the stairwell, down to the parking lot, and I could see him get in the sedan."

The Motel 6 surveillance footage showed the suspects' vehicle did not turn in toward the building or the stairwell. The footage showed the suspects' vehicle drive past the area of room 228 and go nearly to the pool area to turn around. In camera 15's recording, the suspects' vehicle can be seen driving south past room 228, then rounding the southeast corner of the parking lot headed toward the pool area. When the suspects' vehicle returned to pick up Mr. Sharpe (in camera 28's view), he walked out to meet the vehicle in the driveway so it had no reason to turn into the building. The suspects' vehicle stayed facing northbound (parallel to the building) in the parking lot when Mr. Sharpe entered it. It should be noted after the suspects' vehicle drove away with Mr. Sharpe, a different car turned around in the area in a manner similar to what Sergeant Davis described.

Q: How many times did the subject go in and out of the hotel room before the car picked him up?

A: He exited the hotel room only once.

Q: Okay.

A: As I recall. Walked back and forth between the front door and the stairwell several times.

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Q: All right. Do you believe that was unusual behavior for someone in this setting?

A: Yes.

Q: Uh, what about it made it unusual?

A: He appeared to be very nervous. He appeared to be very anxious, um, on the phone or looking in the parking lot, what I would consider to be looking for somebody to come pick him up, somebody who was by the same token attempting to hide his identity, and all the factors in which I was saying and all the experiences of my career, I believed the subject to be not wanting to be observed, not wanting to be identified.

Q: Um, in one of the exhibits also was the - the weather report for that day.

A: Yes, sir.

Q: Just indicating the temperature. Uh, was the - was that night a cool night? Cold?

A: I - wouldn't call it cold personally, I don't remember the exact temperature though either.

Q: Okay. My reasoning was just to get an idea of if it was a cool night and therefore, someone may choose to wear a hoodie?

A: I understand the question now, yes, sir. From what I recall and from what I recall in my interview, criminal interview [CID], there was no reason for him to have the hoodie on, as excessively cool temperatures, rain, or anything of that nature. Having the hoodie on was one of the indicators to me of suspiciousness and that he was attempting to, uh, hide his identity.

Investigative Note:

Exhibit 17 consists of weather reporting information for January 4, 2015, (night of the incident) and January 13, 2015, (night of the reenactment) from the National Oceanic & Atmospheric Administration which stated January 4, 2015's, high was 73 degrees and low was 51 degrees with 1.62 inches of rain. In addition, the National Weather Service issued a Tornado Watch that day which expired at 6:00 pm. This incident occurred at approximately 7:26 pm.

Q: Okay. Uh, could you see who was driving the car when the car picked up the subject?

A: No, sir.

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- Q: Altogether, how long did you - do you believe you monitored the suspect before he left in the car?
- A: Um, initial observations of the room, outside the room, down to the parking or to the car, 45 seconds, a minute.
- Q: Okay.
- A: That's an approximation of course.
- Q: Okay. Uh, what I was, uh, you know one of the exhibits was also the AVL [Automated Vehicle Locator]?
- A: Yes, sir.
- Q: And I was trying to determine if the time your vehicle was around the hotel was comparable to the amount of time that you were actually observing, uh, or were you parked there before you were able to get set up to view the hotel?
- A: I was park- the location in which I was parked, I forget the address and - I know it's in the record. Uh, 900 something Lafayette [Street] maybe, if you have it in front. Uh, it was...
- Q1: If you need to look at it, look at it. I mean there's like a lot of exhibits in this case, and you're gonna be asked questions - if you need to recall everything in every exhibit you need to look at it.
- Q: It's - it's totally fine if you want to look at the exhibits.
- A: Certainly, absolutely.
- Q: That's totally fine if you want to look at the exhibits. You can feel free.
- Q1: All right. If he's gonna be asked to recall specifically like what's on every - on these exhibits, I think he just needs to sit over there and be able to look at them, 'cause it's way too much to be held to account for, every word of every exhibit and every time and how long he was at one place.
- Q: That's - that's completely fine.
- Q1: So, Brian [Davis] you might want to just sit over there.
- A: Yes, sir. Repeat the question, please.
- Q: Uh, what I was looking for was altogether how long had you monitored the subject before the car picked him up?

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- A: Um, AVL records don't show that. From what I see, it starts with their, uh, 1857, and there's no documentation thereafter. Um, it shows zero speed and looking back over...
- Q: That's okay. You can sit - yeah.
- A: You can move the tape maybe? Or I can speak a little louder.
- Q: Yeah.
- A: I don't see anything past, um, the 1857 hours, which is 6:57 pm, yes. And the last thing where I'm sitting in that area, which is gonna be 920 Lafayette Street, where I was.
- Q: Okay.
- A: At this point I'd be guessing as to the exact time.
- Q: Okay. And do you believe you spent enough time observing the subject to make an accurate determination of his identity?
- A: I had no doubt in my mind at that time, the subject, uh, yeah, was Deondrea Hudson. Yes.

Investigative Note:

Sergeant Davis believed he was at his observation point on East Lafayette Street at 6:57 pm. Sergeant Davis' AVL information [Exhibit 21] indicated the following information:

- At 6:57 pm, Sergeant Davis' GPS coordinates mapped his vehicle behind Blue Ribbon Cleaners (1102 East Lafayette Street), east of the Motel 6.
- At 7:13 pm, Sergeant Davis' GPS coordinates mapped his vehicle as stationary at the building across Goodbody Lane from the Motel 6. The building was the location where Sergeant Davis conducted surveillance on Mr. Sharpe's hotel room.
- At 7:16 pm, Sergeant Davis' GPS coordinates mapped his vehicle in motion going 17 mph in the 900 block of East Lafayette Street.
- At 7:17 pm, Sergeant Davis' GPS coordinates indicated his vehicle was near the intersection of East Lafayette Street and Magnolia Drive going 7.8 mph.
- At 7:22 pm, Sergeant Davis' GPS coordinates indicated Sergeant Davis was stationary at the Super Lube (across from the Marathon Gas Station).

According to the Marathon Gas Station surveillance camera footage [Exhibit 30], the suspects' vehicle entered the parking lot at 7:16 pm.

According to the radio transmissions [Exhibit 8], Sergeant Davis requested backup officers through the CDA at 7:18 pm.

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It should be noted, the times listed above were from three systems. According to Patrick Pence, GIS Coordinator for the City of Tallahassee – Information Systems Services, the clocks for the radio and the AVL should be in sync “or at least very, very close.” The only clock which might not be in sync would be the Marathon Gas Station’s video clock.

Q: All right. And, you mentioned earlier the suspect’s car left, um, out of the parking lot. Do you know, uh, where it went from there?

A: No, uh, it left the - to the north, which is where the entrance - there’s the access road to Apalachee Parkway. I couldn’t see where it went from that point.

Q: Okay. And why did you follow him?

A: I didn’t follow him. I knew there was only - he had to go to so many places. I went to Lafayette [Street] and Magnolia [Drive] - it’s one of five possible ways he could have gone - to see if the vehicle did come that way. The vehicle did come that way, parked in the Marathon. To confirm it was the same vehicle, I parked behind Super-Lube. The subject, who I believed to be Deondrea [Hudson], exited that vehicle.

Q: Okay. Uh, and my next question was gonna be how did you know the car you saw at Magnolia [Drive] and Lafayette [Street] was the same car; but you said the person exited the vehicle?

A: Who I believed to be Deondrea [Hudson], yes, sir.

Q: So you look - he basically just looked like the same person, the same...

A: The same person.

Q: Okay. And you mentioned you parked at Super-Lube?

A: I believe that’s the name of it, it’s a[n] oil change business on the southeast corner of Lafayette [Street] and Magnolia [Drive].

Investigative Note:

The oil change business is Super-Lube [1255 E Lafayette St] located on the southwest corner of the intersection.

Q: Where did you go when the suspect - subjects went into the gas station? Did you stay at Super-Lube?

A: Yes, sir.

Q: Okay. Did you have a clear view of the gas station?

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- A: Yes, sir.
- Q: How far away do you think the gas station was from the Super-Lube?
- A: Uh, total guesstimation - I haven't even thought of that before today. Uh, it's three lanes roadway, a two-aisle gas pump, and the storefront window. Uh, assuming ten feet per lane, ten feet per gas aisle, that's 40'. Another 20' from me, and that's strictly approximations.
- Q: And did the passenger and the driver get out of the car to go in the gas station?
- A: Yes, they did.
- Q: All right. Was there sufficient lighting for you to determine if the passengers were the same as those for the Motel 6?
- A: It is a newly refurbished gas station which Marathon just took it over, and it has excessively bright lights. It's very well lit, inside and out.
- Q: So the lighting was better there than it was at the motel?
- A: Yes, sir.
- Q: And with the better lighting, did you still believe the original subject (Mr. Sharpe) was Deondrea Hudson?
- A: It reaffirmed my belief.
- Q: All right. Did the subject appear armed with a weapon or a firearm?
- A: There were no direct indicators that I saw at that time.
- Q: Did the additional lighting in the gas station strengthen or weaken your belief that the subject was Deondrea Hudson?
- A: Reaffirmed it.
- Q: So the subject went inside the store. Did you observe anything inside the store which increased your belief the subject was Deondrea Hudson?
- A: He - if a subject - if you normally walk into a convenience store, this is - assuming a reasonable person, you are there to get something. You're casual. You may be - if you have a cop eye, you're looking behind the cash register to make sure that nobody's being robbed or in the cooler, but you're casual, you're looking for something. You get your something, you go to the cash register, or you might mill around. This person was very cautious as to where he was walking. He kept the

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hoodie up, if not tugged a little every now and then as it would come back behind him. He was very, very interested in anybody who walked by the front windows, anybody who came into the store. He was very intense in regard to knowing his surroundings. That activity also increased my belief this was Deondrea Hudson.

Investigative Notes:

The Marathon Gas Station security camera footage contradicted Sergeant Davis' statements and showed Mr. Sharpe acting in a casual manner while at the establishment. The footage showed Mr. Sharpe and a second subject (later identified as Mr. Sharpe's half-brother Deon Fields) from the point they arrived. Mr. Sharpe was still wearing his hooded sweatshirt with its hood up, and Mr. Fields was wearing a coat and a ski cap. Mr. Sharpe was holding his cellular phone when he entered the gas station and began talking on it. Mr. Sharpe could be seen on the footage "milling" around in the store, talking on his cellular phone, while shopping for foods and drinks inside the store. While standing at the cold drink cooler, Mr. Sharpe paused with arms crossed to talk on his cellular phone before making a selection. It should be noted Mr. Sharpe did touch his hood while in front of the cold drink cooler, but it appeared as though he scratched his head.

Besides Mr. Sharpe's and Mr. Fields' behavior, the footage showed other items of interest. The camera footage aimed toward the cold drink cooler showed a portion of the front window to the gas station. The front window had hanging advertisements and other displays which would partially obstruct the view inside the gas station. The aisle where Mr. Sharpe selected what appeared to be a candy bar would, more than likely, not have been visible from outside the gas station. The candy bar aisle was located a few aisles into the store, with display racks filled with items between the front window and Mr. Sharpe. It would have been improbable for Sergeant Davis to maintain a consistent view, if any, of Mr. Sharpe through grocery aisles, filled racks, hanging advertisements, two rows of gas-aisles, a parking lot, and across three lanes of traffic.

Q: Um, why didn't you attempt to arrest the subject while he was at the gas station?

A: Uh, we don't try to arrest murder suspects by ourselves, and there's a lot of citizenry. It would not have been the best play. I was calling in additional resources at that time.

Q: How long did the subjects stay in the gas station?

A: Approximately 45 minutes - excuse me, 45 seconds to a minute and a half. That's a guess though, as I was at the same time pulling in resources and checking people's locations to make sure I had them close by.

Investigative Notes:

The Marathon Gas Station security camera footage showed Mr. Sharpe and Mr. Fields arrived in their black BMW at 7:16 pm and left at 7:21 pm.

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Q: Okay. At the gas station did the subject make any gestures or movements which would lead you to believe he had a concealed weapon on his person?

A: He was very aware of his waistband and pockets and whatnot. There was nothing that I specifically saw to make me believe at that time that he had a firearm on him.

Investigative Notes:

The Marathon Gas Station security camera footage showed Mr. Sharpe reach into his pocket while standing near the register when he first entered the store, and again when he paid the clerk for the items he selected. There was no footage showing he was "very aware of his waistband and pockets."

Q: Okay. Did you observe anything outside the gas station which increased your belief that the subject was Deondrea Hudson?

A: Uh, his actions again. The vehicle had parked basically in front of the storefront. They had pulled in from the north and was facing south, which would put the passenger door to my side, the east side of the, uh, door. I am a little up on a hill. I'm in a little darker area. Uh, if somebody's not paying very close attention, you wouldn't, I wouldn't think, notice a police car back there. Uh, when he exited though, he became even- if he could, become even more nervous. Um, the driver was speaking to him and motioning to get in the car, and he was actually walking away from the car, uh, southern bound to, uh, Lafayette [Street] - no, to Magnolia [Drive], um, in which I had put on the radio at that time, "I think he's fixin' to run." Um, he didn't. He turned around though and went back into the car. Um, those actions led me to believe that he had seen the police vehicle. He was worried about the actions and being captured, and was thinking about running. For whatever reason, he went back to the car. But those actions again reaffirmed, with the other activities and the visual observation I had, I believed this to be Deondrea Hudson.

Investigative Notes:

The Marathon Gas Station security camera footage and Sergeant Davis' own radio transmissions contradicted Sergeant Davis' statements.

The footage showed Mr. Sharpe pay for his items, then use the change owed to him to purchase additional items (which appeared to be loose candy) before walking out the front door toward the car. By that point, Mr. Fields was waiting in the driver's seat of the car. Mr. Sharpe can be seen holding a plastic bag in one hand and using his shoulder to brace the cellular phone while walking to the car. Mr. Sharpe rounded the front of the car and got into the front passenger seat. The video does not show Mr. Sharpe walk away from the car, walk south through the parking lot, nor does it show Mr. Fields get out of the car and motion or yell for Mr. Sharpe to get

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into the car. The car drove out of the parking lot and north on South Magnolia Drive. [Exhibit 30]

The radio recording does not substantiate Sergeant Davis' claim to have said, "I think he's fixin' to run." The radio recording revealed Sergeant Davis stated the following, "Alright, now he's in the checkout line. ... I think he's coming out now. He's gonna get in- I'm going to have to let him get into the car because there are a ton of civilians there. ... Alright, he's outside but I've lost sight of him; he's in between the gas pumps. I can't see where he's at. It appears the brake lights on the black car is [sic] coming on. Uh, black car is a four-door sedan, total black out with uh, low profile tires is all I can tell you right now. ... The car is pulling out, standby. [The] car's positioning itself to Magnolia [Drive]. [The] car's facing Magnolia [Drive]; I'll let you know if it goes north or south in a moment." [Exhibit 8]

Q: Okay. When the subjects got back in the car, uh, and you - you mentioned earlier the door that was facing you, was that the passenger seat he got in?

A: Yes, sir.

Q: Okay. From there where'd the car go?

A: Uh, it drove south to Magnolia [Drive], to where it's facing Magnolia. It can only go at that point, uh, north or south - the way the wheels were turned, I thought it was getting ready to go south. Uh, I believe I even called that. It did not, it stayed on the north, um, transitioned to the through lane and then to the left turn lane for westbound Lafayette [Street].

Q: Okay. And again, uh, why did you follow it from the gas station?

A: At that point we're at a public streets [sic]. I had law enforcement officers coming to me. I knew I had one directly west of me and directly east of me. I believed the subject to be Deondrea Hudson, wanted for murder. I had the resources coming and available to start the apprehension.

Q: All right. Uh, when did you activate - activate your emergency lights and siren?

A: Uh, just about - after we passed The Moon [Night Club], [at] Seminole [Drive] and Lafayette [Street].

Q: Okay. And at this point, uh, you mentioned earlier the suspect car didn't stop, but did it increase its speed or take evasive maneuvers to attempt to - to - to prevent you from stopping the vehicle?

A: Initially it was - he maintained his status quo, driving.

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- Q: Okay. Um, how did you get the suspect's vehicle to stop?
- A: Ultimately?
- Q: Yes.
- A: A PIT [pursuit intervention technique].
- Q: And just so I know, did you attempt to PIT the vehicle more than once? There's a part in the video where...
- A: Yeah, uh, Santa Rosa [Drive] and Myers Park [Drive].
- Q: Okay. And it was just an unsuccessful PIT or did he drive out of it?
- A: I believe we had some contact and he was making the left turn as it was, so it kind of put him in a place where he could drive out of it - it wasn't - wasn't a very good initial contact.
- Q: Okay. At, uh, as the successful PIT occurred, the driver's front - the driver's front, uh, of both vehicles appeared to be near one another. Um, from that position could you or did you look into the suspect's vehicle?
- A: Yes.
- Q: Okay. What did you see when that was happening?
- A: Before the vehicle's already been stopped, I see the subject who I believed to be Deondrea Hudson exiting the vehicle and run into the - behind the vehicle, which was to the east. At the same time I'm staring face to face with the driver, who I'm now judging whether or not he's going to become a threat to me, I do not know. Uh, he exits the vehicle. Officer Schwab sees him and takes off after him.
- Q: Okay. Um, did you discharge your firearm at the driver at all?
- A: No, sir.
- Q: Okay. And you discharged your firearm at the subject who was running away who was in the passenger's seat?
- A: Yes, sir.
- Q: All right. And is that because you believed he was Deondrea Hudson or...
- A: Because he had produced a firearm and was turning with said firearm,

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which had got by the position of Officer Schwab and had been turned on me.

Q: Okay. Um, are you certain that you saw the suspect - the subject with a firearm?

A: Yes, sir.

Q: Could the object you saw have been anything other than a firearm?

A: In my opinion, my recollection of what I saw, that was a firearm.

Q: Okay. Uh, and what did the firearm look like?

A: A semi-automatic firearm.

Q: Was it large or small?

A: I believe I ended up calling - classifying it for Investigator Isom as a medium frame or a frame size of his hand. The exact sizing of it I - I could not tell you, it's also relative to what's his hand size appeared to be.

Q: Okay. And the color?

A: Dark.

Investigative Notes:

In Sergeant Davis' CID interview with Investigator Isom, he described the scene and the firearm with great detail. Sergeant Davis stated, "I could see the gentlemen who I believed to be Hudson running to the west- or excuse me east and as he got to the area of the rear of the house, the back wall of the house ... there's a fig tree that's back there, you should have located a sock back there, it's about 40 yards I think from my front bumper. The gentleman had stop or was stopping, [he] began to turn to his left from the east, to the north, to the west, was raising his right arm and I could clearly see a semi-automatic pistol in that hand. [He] raised it to the ground level in a position where it was appeared to be pointing toward Officer Schwab and had taken a stance to fire. It is at that time I had started to yell, 'Police stop,' but I didn't have time to finish- complete that. With the sirens on, nobody could have even heard it. He did see- or got to my attention he had realized where I was somehow or noticed my movement, whatever it may have been. And the arm continued to come around towards me. I quickly fired I believed to be three shots, the round count- I believe to be three, three shots. The round count shows up, if I'm not mistaken, to be four. I was very worried about my background, the neighborhood we're in, I was very worried about him firing upon officers, they distinctly went in two separate directions so at the same token I'm thinking this might have been a set up at the same time. Run very quickly out and the guy knew- was going to ambush whoever runs after the other gentleman. The weapon came to

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me, it went- had already passed Schwab when I was firing. The gentleman very quickly turned to his left, so he continued the circle around ... he was pushing back with his legs. Okay, the 'Oh shit factor,' being shot at you're going to react very quickly. [He] pushes back continues his movement around and runs very quickly behind the house. As he's turning and as that gun is away from me and he's- he's very quick gentleman as you can see in the videos. As he made that movement, I stopped firing. I had no reason to be firing at that point."

Sergeant Davis went on to say the firearm was a dark semi-automatic handgun. In addition, Sergeant Davis said the orange sock was a marker for the area where Mr. Sharpe stood when he pointed the firearm. [Exhibit 14]

Q: Okay. Did you use any additional lighting to see the suspect before you fired?

A: Additional lighting meaning?

Q: Any supplemental lighting besides what was there before you got there, or did you...

A: What was there when we got there as I see the tapes, to - to answer that - the question is there's [sic] two house lights, to the house to the left, two outside lights. The house on the right had its porch light on. I have my high beams on. I have my light bar in pursuit mode, which automatically activates the takedown lights. There were, if I counted correctly, three streetlights in the immediate area that were also illuminating down that range. Other than that lighting, uh, assuming I'm not forgetting something, that is the lighting utilized.

Q: Okay. If the suspect was armed and pointing the firearm at another officer, why was this information never given to anyone else that could have encountered the armed suspect?

A: It was.

Q: Okay. Who was it given to?

A: It was given to Lieutenant Outlaw, it was given to Officer Clayton and Officer Schwab.

Investigative Notes:

Sergeant Davis' CID interview with Investigator Isom contradicted this statement.

Near the end of the CID interview, Investigator Isom asked Sergeant Davis more information related to the events after he discharged his firearm. Sergeant Davis told Investigator Isom he believed Mr. Sharpe still had the firearm after their confrontation. Investigator Isom then asked Sergeant Davis, "Once he [Mr. Sharpe] was out of sight behind the house, did you alert anybody by radio or otherwise that

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you had fired upon the guy and that he was armed, still armed or anything like that?" Sergeant Davis responded, "There are multiple indications of shots being fired, shots being fired, shots being fired. And, in review of the tape, I do not hear myself saying that, that, I, I, hear [unintelligible] shots being fired. I don't recall that specifically was given out, the weapon. I do know from indication of talking to Schwab at the scene it was all very, very much implied, if not specifically stated. I sadly don't recall specifically saying that. And, I would have to defer to the tapes that night."

Investigator Isom asked Sergeant Davis, "So, you do not recall making the statements on the radio or otherwise except in conversation with Schwab, or not even..." Sergeant Davis responded, "It was, it was implied. I mean ... if I fired that there was a weapon and that was implied to me mentally- otherwise. And ... I'd have to defer to the tapes if it was said by me or not. I don't believe it was. It was ... I hope that I answered your question." Investigator Isom asked Sergeant Davis, "Did you ever specifically state to anyone before today that the suspect was armed with a handgun? [Mr. Webster interjected before Sergeant Davis answered and asked, "Other than me?" Investigator Isom then asked, "Anyone] other than Steve [Webster]?" Sergeant Davis answered, "Once LT, Outlaw got on scene, I gave him- this is my second with him- a, a very quick of what was said and done. And, I do believe saying- the exact words I used to him- I do not recall- it was that I was threatened and that I fired. And, those- the minimum, the least that was said, and the implication being that in and of itself, um, additional conversations occurred and I provided information, that was looking for rounds towards me, um. I answered those questions, um. If we should be looking for any other incidents- incidents um, no, I specifically can look back- can we look in the backdrop for my rounds, um. Once I found out that it was Mr. Sharpe we had, versus [Mr.] Hudson, Lieutenant Abbey was already on scene and I had asked if he was briefed by [Investigator] Trowbridge, I received a[n] answer of yes. I suggested highly that we go back to 2-2-8 in that regard, make sure we surround that, um. Everything that I said or did that night I don't recall specifically it was a lot, and I- would have to defer to the assistance of other people's recoll- recollection and tapes."

Investigator Isom asked Sergeant Davis if he told Lieutenant Outlaw there was a threat and if that was Sergeant Davis' recollection. Sergeant Davis answered, "That was the recollection of what was said to me." [Exhibit 14]

Q: Okay. Let's just go down the list. Um, when was it given to Officer Schwab?

A: Upon our initial contact.

Q: Okay. Um, and...

A: He had run off one way, I had run in a different position. We ended up contacting each other to the left side of the vehicle - suspect vehicle.

Q: Okay. But when - when did that happen, like immediately after the

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firing?

A: Yes, sir.

Investigative Notes:

In his CID interview on January 8, 2015, Officer Schwab contradicted Sergeant Davis' claim he was told the suspect was armed with a firearm. Officer Schwab said there were sirens on and he did not see the person at whom Sergeant Davis fired. Officer Schwab explained what occurred after the shots were fired, "I recall uh, approaching the suspect vehicle because ... I believed that there was [sic] two individuals inside that vehicle and I had only seen one exit. So, I didn't know where Sergeant Davis was actually shooting, so I addressed the vehicle as uh Sergeant Davis came around the front of the suspect vehicle. We both met up on the side um, I observed that there was no one else inside the vehicle. And, I believe I recall asking him, you know, who, who were you shooting at and uh, he pointed in the east- southeastern direction of where the second suspect had fled." Though the sirens were on, it would appear Sergeant Davis heard and acknowledged Officer Schwab. Officer Schwab did not recall hearing Sergeant Davis say anything when he pointed.

Investigator Isom asked Officer Schwab what else Sergeant Davis told him. Officer Schwab answered, "That's, that's really the only thing that I asked him was who he was shooting at, and I asked him if he was okay, he- he said 'yes,' um, then we started just coordinating getting K-9 there. And I immediately went on the track with K-9."

Investigator Isom asked Officer Schwab, "Did Sergeant Davis ever tell you that the subject he was firing upon was armed?" Officer Schwab answered, "No sir." Investigator Isom asked, "Did he ever tell you- or give you any indication as to why he fired on the subject." Officer Schwab answered, "No sir, I didn't ask him." Investigator Isom asked, "Did um, you ever hear second hand from anybody that the subject he fired upon was armed?" Officer Schwab answered, "No sir." Investigator Isom asked, "Do you recall any radio traffic that [Sergeant] Davis initiated that indicated the suspect he fired upon was armed?" Officer Schwab answered, "No sir."

Investigator Isom asked Officer Schwab the questions again. Investigator Isom asked, "And just to clarify, at no time during that incident, immediately after the shooting, prior to the shooting, after the track had been started, at no time- you heard anything from Sergeant Davis that indicated that he observed the suspect as armed?" Officer Schwab answered again, "No, sir." [Exhibit 14]

Q: Okay. And the reason why I ask that is because in Officer Schwab's MAVRIC [video] and [Officer] Jamie Martinez's MAVRIC [video], whenever they go to begin the pursuit, [Officer] Martinez asks [Officer] Schwab, "Hey, was this guy - did this guy come out zero?" And [Officer] Schwab says, "I don't know, Sarge is the one who shot," or something to that effect.

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A: I understand that. The other thing I'll point out, I didn't remember to bring out momentarily ago, the additional lighting available is that of Officer Martinez's vehicle coming up behind Officer Schwab's vehicle, and Officer Schwab's vehicle behind myself.

Q: Okay.

A: In regard to that question, yes, I understand he made those statements. At the same time, when you go through his report, he says I told him I fired. He says that he searched the suspect vehicle - if you watch the videos, he did not. He says at different times throughout the different interviews, he recalls this, he doesn't recall that. He - I said something to him, but he can't recall what I said, because the sirens were so loud. He has his recall of events. I appreciate that.

Investigative Notes:

Officer Schwab agreed Sergeant Davis fired his handgun. An excerpt of Officer Schwab's supplemental offense report read as follows: "I observed Sgt. Davis standing in the open doorway of his vehicle with his Department issued handgun deployed. Sgt. Davis and I quickly cleared the suspect vehicle of any additional occupants. Sgt. Davis advised that he had fired his weapon at one of the suspect as he fled towards 1211 Seminole Dr." [Exhibit 4]

On Officer Schwab's MAVRICS video, Officer Schwab can be seen (at the 6:24 time stamp) shining his flashlight (which was attached to his handgun) into the suspects' vehicle, thus clearing it. Once the suspects' vehicle was cleared, he continued forward looking for the person at whom Sergeant Davis fired. [Exhibit 14]

Q: Okay. Um, you said [Officer] Schwab says that [Officer] Schwab himself searched the car or...

A: Yes, sir.

Q: Okay.

A: Cleared the car.

Q: Cleared the car? Okay.

A: Cleared the car, I'm sorry.

Q: Okay. Um, okay. Uh, now as far as Officer Clayton - you're talking about [Officer] Robbie Clayton?

A: Yes, sir.

Q: Okay. When did you tell, uh, Officer Robbie Clayton?

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- A: Upon his initial arrival.
- Q: Okay. And like how - how did you tell him, like how is that information relayed to him? Like what was...
- A: As I recall it, when he first got out of the car, he asked me, "Did he - was he armed?" I stated specifically, "Yes." At the same time, there was a lady yelling and screaming she had just saw the person run down Maple [Drive], and I was getting with that person to get additional direction of travel to provide to [Officer] Robbie [Clayton].
- Q: Okay. Did [Officer] Robbie Clayton acknowledge what you told him?
- A: I didn't have any reason to believe he did not understand what I told him...
- Q: But did...
- A: ...at that time.
- Q: ...did he acknowledge such as a "Yes," nodded his head?
- A: It was a nod as I recall, and no additional, "What did you say? I didn't understand." It was my interpretation he understood what I told him.

Investigative Notes:

Sergeant Davis' statement, again contradicted his CID interview regarding whether he told anyone the suspect was armed. Sergeant Davis' claim to have told three separate officers was not the same information he told Investigator Isom.

Also, Officer Clayton stated in his Internal Affairs Unit interview he was unsure whether Sergeant Davis said the suspect was armed.

- Q: Okay. Um, and I never asked that with Officer Schwab. Did Officer Schwab acknowledge or nod or do anything to validate he heard, uh, the information?
- A: He didn't do anything to make me believe he did not understand the information.
- Q: But, um, was there a nod or any- or anything?
- A: Best I can recall there's a non-verbal yeah, I hear you, I understand what you just said.
- Q: Okay. Um, and just because the tape doesn't actually see, you're putting - you're gesturing with your head, like nodding so is it...

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- A: Yes, sir.
- Q: ...a nod?
- A: As I recall. There was nothing for me to indicate - any reason for me to believe he did not understand what I said.
- Q: Okay. And finally Lieutenant Outlaw, how was that information given to him and when?
- A: There were several phone calls with Lieutenant Outlaw. It was either during one of those phone calls or while he was on scene. Um, there were several conversations with Lieutenant Outlaw, as you can see through the videotape. Additionally, through the interviews, the interview you have specifically with Lieutenant Abbey. Lieutenant Abbey is very affirmative when Lieutenant Outlaw told him the subject was armed, the only way Lieutenant Outlaw could have gotten that information was from me.
- Q: Okay. Um, so what I'm trying - what I'm just trying to get to clear the record straight is what - how did you tell [Lieutenant] Outlaw what you said? 'Cause there was some discussion in, uh, another portion where, um, you might have said that you saw a threat, you perceived a threat, um, did you say that you see a - saw a firearm? This is, uh...
- A: Understood.
- Q: ...pretty, uh, important.
- A: There were several conversations with [Lieutenant] Outlaw. Lieutenant Outlaw and I have worked together for a very long time. And I'm sure at one point with our conversations - let me get my thoughts together, make sure I get this correct, the way that we need to do this. At what point in time specifically did I tell him there was a firearm? I can't - I can't recall if it was on the phone or in person, I do not recall. I know there were multiple conversations in which I offered and briefed him what had occurred. There was an opportunity in which he also asked me questions, all of which I answered fully. It was during one of those conversations and more likely than not, be one of the very initial - the initial conversation in which that information was relayed.

Investigative Notes:

Sergeant Davis' statement, again conflicted with his CID interview.

- Q: Okay. Um, and again, uh, 'cause there was a portion - there was a time where it was explained that you told him that there was a - you saw a threat and you addressed it. Uh, what I - what I need to clear the record is did you tell him the suspect had a firearm, or did you tell him you saw

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a threat and you addressed it?

A: It is my recollection that I told him he had a firearm.

Q: Okay.

A: That recollection is also then reaffirmed in Lieutenant Abbey's interview, in which he states he was told by Lieutenant Outlaw that I said the same.

Q: Okay. And the same as the other guys, did [Lieutenant] Outlaw acknowledge by nod, word, action, anything, that you had informed him, that - that he was aware there was a firearm?

A: The specific form of acknowledgment I don't specifically recall.

Investigative Notes:

Lieutenant Outlaw was asked in his Internal Affairs Unit interview if Sergeant Davis told him or anyone else any statement in regard to the suspect being armed or having a weapon. Lieutenant Outlaw answered, "No, sir."

Lieutenant Outlaw was asked by Investigator Isom in his CID interview questions regarding the firearm. Investigator Isom asked, "Did he [Sergeant Davis] ever say to you what the threat was towards him?" Lieutenant Outlaw answered, "No ... and I didn't ask him at that point."

Investigator Isom went on to ask Lieutenant Outlaw, "So at, at no time he [sic] told you what kind of weapon the suspect possessed?" Lieutenant Outlaw said, "No." Investigator Isom asked, "At no time did he tell you of any weapon he observed?" Lieutenant Outlaw answered, "No."

Lieutenant Outlaw told Investigator Isom he asked Sergeant Davis questions. Lieutenant Outlaw stated, "Later on, in [the] investigation for the sake of inv- safety, I'd asked him two other questions, I believe um. And, I said you know per- and this is once the uh attorney was on already on scene with him. I said, just for the sake of safety, you know, as far as a backdrop, should we be looking at a certain house or anything else you know for strike marks? And, and I asked him also the same thing for the sake of safety, should we be looking for any projectiles coming back in the opposite direction so house behind us from where we were looking at, and he told me no at that point for that question."

Investigator Isom asked Lieutenant Outlaw again, "So, at no time during the on-scene with you and him standing there, uh or prior to that there- was [there] any discussion about what type of weapon the suspect was in possession of or what his threat was, perceived or otherwise?" Lieutenant Outlaw answered, "No, because at that point it was ... presumed that [Dcondrea] Hudson [would] be an armed and dangerous. And, at that point, I got enough to know that- make the presumption it's an armed suspect, dangerous suspect, um a homicide suspect. And, that I knew that Brian fired, and for the sake of that investigation I assumed enough that the person

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was going to be armed or dangerous.”

Investigator Isom concluded the interview with Lieutenant Outlaw by stating, “So to your knowledge ... and listening to the radio and so forth there was no indication as to what type of weapon or if the suspect was armed or what perceived threat that Sergeant Davis was exposed to.” Lieutenant Outlaw responded, “Correct.”

Q: Okay. If you were Officer Schwab or any of the responding officers, would you want to know if a suspect pointed a firearm at a police officer?

A: In this specific incidence? Yes.

Q: Okay. Uh, is it common practice that if you see a suspect with a firearm, you relay that information?

A: Would give it, yes.

Q: I'm sorry?

A: Yes.

Q: Okay. After firing at the subject, Officer Schwab and you began walking toward the direction the suspect ran. As Officer Schwab began to run in the direction of the suspect, you turned around and walked to the rear of your SUV, leaving Officer Schwab on his own. Uh, why did you do that?

A: I disagree the way that's stated. Officer Schwab had a conver- I had a conversation with Officer Schwab at that point, in which he didn't even know about the passenger. He was informed of the passenger. He was informed what occurred, that I had shot, and he was informed of the firearm. I turned - nobody had cleared the vehicle as I recall at that time. I turned to clear the vehicle. I see Schwab going a little further down. That's when I go further out to insure we're not being flanked or the subject's coming back around, and Officer Schwab is called back.

Investigative Notes:

Officer Martinez' MAVRICS video showed Sergeant Davis as he rounded the rear of his SUV and walked south to ensure a suspect was not flanking the officers. The video (at minute 4:24) showed Sergeant Davis holstering his handgun as he passed the SUV and walked out of view of the camera. Sergeant Davis returned in range of the video at minute 8:35 (minute 12:03 for Officer Schwab's video). Sergeant Davis' handgun was not in his hand but rather in its holster. At that point in time, the suspects were still at large and the possibly of being flanked was still real.

Q: Okay. If you believe the subject you fired upon was a murder suspect who was armed with a firearm and pointed the firearm at your partner officer, why wouldn't you continue going after the suspect with your partner officer?

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- A: We had a massive amount of resources coming. We had Officer Clayton very close. As I recall, Officer Schwab had gotten further down and had conveyed when he came back, he was not back there. If you will also take into consideration Officer Schwab's - the prudent move in mind at that time was to set up the perimeter, bring the resources in, taking the appropriate manpower to address this subject who was wanted for murder and armed with a gun.
- Q: Okay. And the next question is why wouldn't you stop and warn...
- A: And to add to the response on that one, there was a second subject as well, that we did not know his intent and where he was or if he was coming back too.
- Q: Okay. Um, continuing with the next question. Uh, why wouldn't you stop and warn your responding partner officers about the threat they were going into? Meaning the patrol officers that are responding, the K-9 that are responding, because there were some radio transmissions you made acting on Intel, during the - the incident, but...
- A: I - I recall telling [Officer] Robbie [Clayton] clearly, and reaffirmed from what I heard from him, that he was informed. Officer Schwab who was part of that, I recall that I informed him. The inf- details given out, I understand - I haven't listened to the entire tape. I am surprised that my voice is not somewhere on there on the radio, saying that.
- Q: Okay. And that's - that's one of those - those topics again that has to be completely clear for the record. Did you say on the radio that the subject was armed with a firearm for the responding officers to hear?
- A: And I had no reason to believe that I did not, and in listening to the interviews of the responding officers, they say that at some time or another it was on the radio.

Investigative Notes:

The radio recordings from the incident [Exhibit 8] contain many transmissions from Sergeant Davis, but none stating the suspect was armed with a firearm. Of the radio transmissions, the following would have provided ample opportunities for Sergeant Davis to have told officers the subject (Mr. Sharpe) was armed with a firearm:

- At 7:26:45 PM, Sergeant Davis stated, "Shots fired, we're stopped at Seminole [Drive] and Lafayette [Street], Seminole [Drive] and Santa Rosa [Drive]
- At 7:27:04 PM, Sergeant Davis stated, "Primary suspect ran south, east toward Maple [Drive] and Seminole [Drive]."
- At 7:27:58 PM, Sergeant Davis stated, "Lock down Lafayette [Street], lock down Lafayette [Street], he's probably going back to the Motel 6, with that being said give ... needs to south, we're good on scene, I need units to get a

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perimeter, Tallahassee let me know if the helicopter's up."

- At 7:28:38 PM, Sergeant Davis stated, "Alright, I got citizens telling me he saw one suspect eastbound on Maple [Drive]."
- At 7:29:24 PM, Sergeant Davis stated, "Alright, primary has been described by a citizen on Maple [Drive] which is the direction I saw him running."
- At 7:29:58 PM, Sergeant Davis stated, "Primary suspect about 5'8" tan hoodie style jacket, and I'll have to defer the rest to the bolo, on the bulletin."
- At 7:43:44 PM, Sergeant Davis stated, "And just a reminder, if you didn't catch it initially, there's a good reason to believe he's trying to get back to Motel 6, if you were not aware."

Also, there were witness officers interviewed who stated they believed (or assumed) they heard the suspect was armed. The officers could not say with certainty who made the statement or when it was said.

Q: Okay.

A: The other thing I want to note in that regard too, as I recall listening to the radio transmissions, questions were being asked, which is very natural, and at no time do I recall hearing that specific question as well. That's again validating to what I believe I had given out that night, that he was armed.

Q: Okay. And I believe you answered this, but I'll ask it. Uh, just for the record, when Officer Martinez arrived, he turned off the control vehicle's sirens and began telling dispatch suspect information. Officer Martinez asked you - asked you which direction the suspect went and you answered. Did you ever tell - tell him the suspect was armed?

A: I don't recall a conversation between Officer Martinez - I recall a conversation between Officer Schwab and Martinez.

Q: Okay. So you never spoke to Officer Martinez?

A: I - possibly I did, I don't recall. I don't recall seeing anything in the videos. I know that - oh, he did say something to me about turning off his car, he's gonna take a track this way. That's when we were at distances in which they're starting to track and I'm back up at the scene, so yes, there was conversation between him and I.

Q: All right. After the shooting you remained an active part of coordinating the scene and forwarding information. Did you use this time to warn officers of the incident, that the subject - that the subject was armed with a firearm?

A: It was my belief that had already been done. I believed that it was done.

Q: Okay.

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- A: At the same-
- Q: Okay.
- A: It's my belief it was already done.
- Q: Okay. When you were on scene, you can be seen looking through the suspect's vehicle's open door and looking around the yard with a flashlight. Uh, what were you looking for inside the suspect's vehicle?
- A: Anything of value. Whether there were any drugs in the car, whether there's components of a firearm, whether there was narcotics, whether there was anything of value that we needed to know and preserve potentially.
- Q: Evidentiary value?
- A: Yes, sir.
- Q: Okay. Uh, and was that in the yard - the case for the - the yard as well?
- A: Yes, sir.
- Q: Okay. Once Yolanda Lynn, Sharpe's mother was, uh, arrived at the scene and was detained by, uh, you and Officer Ouzts, did you ever tell Officer Ouzts the subject you fired upon had a firearm and pointed at Officer Schwab?
- A: Not that I recall.
- Q: Okay. Your work cell phone bill shows you called the Watch Commander line twice and received a call from Lieutenant Outlaw's telephone, all of which at 7:33 pm. Each call, according to the bill, in the last .05 minutes, did you ever speak to Lieutenant Outlaw on the phone or...
- A: It was my recollection I did.
- Q: Okay. Um, and what was said in those - the phone calls?
- A: Specific language I don't recall. I know that it was a rather quick brief of what he was coming into.

Investigative Notes:

It should be noted ".05" minutes equates to three seconds.

- Q: Okay. And once he arrived on scene, did you guys talk?

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- A: Yes, sir.
- Q: All right. And what did - what - what'd you say during that conversation?
- A: As addressed in the prior questions, the - the exact verbiage - I cannot recall exact verbiage. I do recall briefly going over the events. I do recall talking about the suspect description being different from - well, it was Deondrea [Hudson], he was wanted for murder. Uh, about perimeter locations, resources, um, resources we're gonna need, uh, develop a game plan for capturing this subject and the potential lengthy track, resources we need. There's a variety of conversations.
- Q: Okay. And we visited this early [earlier]. Um, there's some discussion as to whether the exact word "perceived threat" was used. Um, did you tell Lieutenant Outlaw the suspect pointed a firearm at Officer Schwab, or that you perceived a threat and fired upon the suspect?
- A: It is my recollection I did tell Lieutenant Outlaw there was a firearm.
- Q: Okay.
- A: That recollection was reaffirmed for me in the interview that you had with Lieutenant Abbey.
- Q: Okay. Do you believe those two statements mean the same thing?
- A: What do you mean?
- Q: The, uh, you perceived a threat as opposed to the subject pointed a firearm at Officer Schwab, do you believe those two statements mean the same thing?
- A: No, the language is different - the definitions are different.
- Q: So - so there - there - what I'm trying to find out is just again, another of one of those saying for the record is those two things do not mean the same thing?
- A: No.
- Q: Okay. If you were the responding supervisor, which statement would you use - would you want your subordinate to tell you?
- A: Which statement?
- Q: Yes, which...

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- A: What do you mean?
- Q: Between those two, given your - the incident that happened, if you were the responding supervisor and it was one of your subordinates that - that was involved in the incident, which one of those two statements would you want to be told?
- A: Could you hand me, uh, GO60 please, in one of those?
- Q1: Sixty-three.
- A: Okay. When working in an officer-involved shooting, there's not a specific or a - just give me a statement. As required by GO63, page 6, Section A, there's a series of questions that must be asked, and it is to insure there's communication. Part of that insurance is due to the nature and emotional value that somebody may be in, in an officer-involved shooting to make sure the information is there. One of the specific questions is a weapon. So that question would be specifically asked. In the question which you asked hypothetically, if I was to ask the questions.
- Q: Okay. Of the two options, because again, this has come up as whether or not you said you perceived a threat, or the subject had a firearm and he pointed at Officer Schwab. In this instance, in this particular event, if you, Sergeant Davis, were responding to an incident where one of your subordinates was involved, which of the two statements do you - would you have - would you want to hear?
- A: If the first statement was given of a threat, qualifying questions would be asked to identify the threat.
- Q: So, and just tell me if I'm correct, what you're saying is you - if someone said that they perceived a threat, you would have asked additional questions to explain what that means?
- A: Yes, sir.
- Q: And is that because you would want to know if the subject pointed a firearm at Officer - at Officer Schwab?
- A: It's required and it's for the safety - public safety.
- Q1: You were pointing at something - what were you pointing at?
- A: I'm pointing at GO63, uh, page 6, which delineates the qualifying questions. It's something that we all, as supervisors should know. So the questions would be asked specific for the information to be precise as it can be.

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- Q: Okay. So I - I'm understanding that as you would want to know if a firearm was pointed at one of your subordinates?
- A: Absolutely.
- Q: Okay. When did you hear the suspect was arrested?
- A: Uh, specific time I don't recall. I was on the radio about the time it was all being put out live.
- Q: Okay. So that - so you - you heard it on the radio?
- A: Yes, sir.
- Q: Okay. Did you tell anyone to check whether the suspect had a firearm or discarded it anywhere along the track?
- A: No, sir, that'd be a natural act.
- Q: Okay.
- A: And the same token at that time, I'm relieved from the scene. Lieutenant Outlaw's in charge. By the same token I believe Lieutenant - or Sergeant Boccio was on the scene, and by policy he's supposed to become the incident commander.
- Q: Okay. Uh, were you transported to the station for a round count and photographing?
- A: Yes, sir.
- Q: Uh, who transported you to the station?
- A: Officer Ouzts.
- Q: Okay. And at what point was that? Was that after the suspect was already in custody or...
- A: Yes, sir.
- Q: Okay. Now that night, did the arrests of Mr. Kenny Sharpe and not actually Deondrea Hudson affect your decision on whether to give a proffer?
- A: No, sir.
- Q: Okay. Did Mr. Kenny Sharpe not having a firearm on his person when

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he was arrested affect your decision on whether to give a proffer?

Q1: I'm gonna object. That invades my attorney-client privilege with my client. I - the proffer's supposed to come through the attorney - I was approached about getting proffered. Just so you know, Investigator Boykin, any decisions or any communications, input I had with my client with respect to offering - making a proffer that night or not making a proffer, it's improper to ask him that. It invades the attorney client relationship.

Q: Well, the - the situation we're in is I don't need to know why he didn't give one, but I need to address the concerns that have popped up, so him simply saying no is sufficient. I'm not - at no point am I gonna ask why, you know. I just simply want to - so that - so the world knows that that was a decision between you two, and none of the rest of this...

Q2: I mean we're not asking what was said between the two of you all. We're just asking if it affected his decision...

Q1: Well, you're asking him why he did it, which is my input, my advice is what affects his decision, so when you ask him that, you're implicating my advice. Does that make sense? If I tell you this is the course you should take, and then you - you say okay, I'll acquiesce to your advice. Then somebody comes back later and says, "Why did you do it this way?" You're naturally invading my attorney client privilege.

Q: Well, and this is totally not what I'm trying to do. In fact, I'm supposed to say that you're not allowed to interrupt my questions, but in all respect, my intentions here were to simply say, "Was that the case?" And if he says "No, that's between me and my attorney," I would say, "Okay," and we'd move on. I wasn't trying to invade your attorney-client privilege.

Q1: If I don't protect it, it'll be waived. I know that, so...

A: Could you ask the question one more time, please.

Q: Do you guys want to step out and talk?

A: No. We're good. Just ask the question one more time, please.

Q: Did Kenny Sharpe not being - not having a firearm on his person when he was arrested affect your decision on whether to give the proffer?

A: Absolutely not.

Q: Okay.

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- A: In fact that same decision was talked about with the Chief, the Deputy Chief, Investigator Isom, my attorney was present for part of it. All parties decided that there was nothing to be gained that night from a proffer, and that he was gonna be held for some time. The State Attorney was gonna insure he was being held. Then we agreed that should it look like he'd become released and they needed information, to call us and we would come in immediately to prevent said release.
- Q: Okay. Earlier you were asked about your intentions during your time doing surveillance at Motel 6, and just, uh, for the record, as I understood it, and tell me if this is correct, you were - there was an agreement to not take action - active - active attempts to identify - or arrest the subject you believed was Deondrea Hudson at Motel 6, but away from Motel 6 is perfectly fine?
- A: It was agreed that - that I would not take pro-activity measures within the confines of the Motel 6.
- Q: Okay. And with that in mind, is - you attempted - are you saying that you - the reason you followed the vehicle to the gas station or that you went to find the vehicle, is 'cause you did intend to arrest him away from Motel 6?
- A: I've got a subject who is wanted for murder, cold-blooded, calculated murder. I have resources to arrest this person. As I understand he was also involved in other crimes between the time he committed the murder and the time he was apprehended. I have a duty as a police officer to make that arrest at that time, and do so safely. I wait 'til we're away from the mot- away from the gas station. I wait 'til resources are available. I wait 'til we get past a social building, The Moon, who is having an event before we engaged. If I recall Sergeant Gavin [Larremore]'s statement to the CCU Bulletin and the language which is beneath it in regard to pro-activity, if you'd give me a minute, please. The question, to paraphrase it, regarding CCU Bulletin, the statement of pro-activity. Sergeant, uh, Larremore was asked to explain that. His explanation is, "Basically do not do anything out of the ordinary, but if you can catch him, then catch him and we will help."
- Q: Okay. And my follow up question is why did you use an unmarked vehicle to do the surveillance?
- A: That location in which I was, I - I know that position. It is very dark, there's no streetlights [sic]. There's a - you cannot see the vehicle from the motel where I was. It was not my intention to be there all night. It was not my intention to - that become my duty. I have other duties that night. This was as time allowed.
- Q: Okay. And why didn't you allow the vehicle to drive back to the hotel

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instead of - instead of attempting to do a traffic stop?

A: I had no idea the intention of the vehicle. It is my knowledge, my belief, firm belief, there's a subject in there wanted for murder, and they committed crimes - crime spree during the time after the murder. I don't know where he's gonna go. I let him go, he goes to commit a murder or commits another crime, I - that's - that'd be hard to - to handle.

Q: Okay. And since there was a - an intent to arrest if he left the hotel, did you have a plan established with personnel to assist, such as an arrest team or patrol cars, or a plan if the subject resisted or fled?

A: What do you mean?

Q: Did you have a plan established, such as you had - you've identified who would be your arrest team, additional marked...

A: In regard to where he was at the gas station?

Q: Yes, if at - if at any point he left the hotel, and you had the intent to arrest, did you have a plan established with personnel to assist, and such examples would be an arrest team, marked patrol cars or a plan for if the suspect resisted or fled?

A: There was no absolute intent that I had to be there that night 'til he left, to make an arrest. There was no planning of such for that regard. This was - he was at a gas station as an ordinary measure. I know I have people in the area from listening to all the radio channels, and I bring them to bear and let him get to a position more safe than not from the public to make said arrest, or attempt the apprehension.

Q: Okay. The shooting took place on January 4th, and your CID interview took place on January 7th?

A: Yes, sir.

Q: Did you visit or drive past the incident location before the CID interview?

A: I don't specifically recall - I may have.

Q: Okay. And the reason why I say that is 'cause there was a citizen witness who stated he saw you and Mr. Webster on the scene on Tuesday, January 6th.

A: I know I was there the 8th, after the interview.

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Q: Okay. Uh, is the visit to the scene on January 6th, is that - is that accurate by that citizen?

A: I - I don't specifically recall that I was there. I'd have to defer to the attorney that I don't want to speak, but I'm not saying I wasn't. I do specifically recall being there on the 8th. And the other thing I'll throw out is in those two days, I hadn't - I hadn't slept a whole lot, so, okay, there's a - I realize there's the perception that we're all the strongest super heroes and Supermans. Um, this was rather traumatic and...

Q: The - the reason why I'm asking that is 'cause the - the citizen stated that you two spoke, and you made the statement, "I tried to shoot low," and I wanted to know if that was accurate.

A: I would not say that to anybody. I do recall having a conversation with citizens out there on the 8th. Uh, that would be the homeowner of the white house, which would be to the right of the front of my vehicle, and somebody else, because there was- we saw strike marks in the dirt that day, and he had came around and was speaking, we asked if he'd mind if we look around and be there.

Investigative Notes:

Based on the location Sergeant Davis' vehicle came to rest, 1211 Seminole Drive would be the house he described as "to the right of the front of my vehicle." Mr. Haselden lives at 1211 Seminole Drive. During Mr. Haselden's Internal Affairs Unit interview, he explained on the Monday following the shooting, the Forensic Unit was at the scene working. Mr. Haselden said on Tuesday, Sergeant Davis was there. When asked how he knew Sergeant Davis was the person he spoke to, Mr. Haselden said he remembered Sergeant Davis as "Officer Brian" and described Sergeant Davis as a big guy who spoke quietly. Mr. Haselden said there was another neighbor, named Mr. Haugdau, who was also present. In Mr. Haugdau's interview, he said he did not specifically recall the encounter but remembered talking to TPD personnel on an occasion while he walked his dog.

Q: Okay. Um, were you read the Oath of Perjury Warning before you were interviewed in CID?

A: Not that I recall.

Q: Not that you recall?

A: I don't believe I was.

Q: All right. In your CID interview you stated the subjects that - you stated the subject kept - once at the gas station, at the Marathon gas station, you stated the subject kept looking outside the windows?

A: Mm-hm.

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- Q: Was more attuned to his environment than a reasonable person?
- A: Mm-hm.
- Q: Or even somebody that was – curiosity [sic], as to what was going on, very attuned. Exit the - exited the store, started to walk to the car, went to the driver's door, and then he left and you said, excuse me - the passenger's door of the car was facing south in the parking lot. You left the passenger door and started to walk south to the parking lot, and I'm thinking okay, he's - he's seen me, he's getting ready to run, and it's - it's kind of like he stopped suddenly, like he was yelled at. It's my perception of what I saw from his reaction. Turned back to the car, walked back to the car. Does that sound like it might have been your statement or something to that effect?
- A: Yes, sir.
- Q: What you told Investigator Isom?
- A: Yes, sir.
- Q: All right. Have you gotten a chance to review the exhibit of the Marathon Gas surveillance camera footage?
- A: Yes, sir.
- Q: Okay. Um, the - the video shows a little differently. It shows the guy just walking right to the car, getting in. Um, can you explain the...
- A: Shows which guy?
- Q: The subject in an orange hoodie, that...
- A: Walking straight to the car and getting in?
- Q: Yes.
- A: I'd have to say that that is a cut of the videos or the cameras. There's a camera shot missing somewhere there. I did see him walk past the vehicle, towards the center of the parking lot, to get called back. I don't recall specifically looking at that video myself. I can review it right now...
- Q: Yeah.
- A: ...but if that's the case, there's been - there's a section of footage missing or it's not covered by those cameras.

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Investigative Notes:

The Marathon Gas Station surveillance camera footage was not missing. The streams for cameras 3 and 5 clearly show Mr. Sharpe walking from the store and getting into the vehicle. The footage contradicts Sergeant Davis' claim.

Q: Okay. If you don't mind, if I can sit where you are and pull that up. Um, that's one of those other issues that we got to address - get taken care of for the record.

A: Uh-huh.

Q: Take just a - two seconds.

*****RECORDED BREAK*****

Investigative Notes:

At the beginning of the interview, Sergeant Davis stated he reviewed all of the exhibits and did not need more time. During this portion of the interview, it was brought to light Sergeant Davis did not review all the exhibits. The Marathon Gas Station surveillance camera footage did not work due to operator error. The video was later made available for Sergeant Davis and Mr. Webster to review.

Q: And again, anytime you need to refer to the exhibits, you're totally welcome to refer to the exhibits.

Q1: I appreciate that. I mean it's just so much material, that..

Q: Mm-hm. Um, resuming where we were. It was - we were discussing the - the conflict in the statement and the Marathon video. Um, and the - the difference. Um, your concern was the difference, the video was edited?

A: I'm not saying - no, I'm not saying edited by any means. I'm not saying there's any conspiracy or anything else here. What I've vocalized to you in my descriptions is my recollection of what occurred. What I heard from you is the video shows something dramatically different. With that being said, I can't see it. I still believe today that what I vocalized to you is what I saw, it's what happened. Should there be something, a camera position missing or something of that nature, it's the only thing - I - I don't know why, but you watch it, I haven't. I don't know if you were able to tell if all camera frames are there or not, but I - I - I'm not discrediting what you say, but I stand by what I just said.

Q: Okay, alright. Um, in your CID interview you give a very detailed description on where the suspect stood, turned, and pointed the firearm at Officer Schwab. Uh, later it was alleged you changed your statement to indicate the subject was closer. Uh, did you ever change your story regarding the actions of..

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A: Let's go back to the computer.

Q: Okay. Let me just finish my question.

A: Okay.

Q: Did you ever change your story or recollection regarding the actions or location of the suspect? Just...

A: Move on?

Q: ...it's going back, just fold her up right here.

A: Let you take care of it.

Q: There you go.

A: What I'm looking for is the photograph of the map I drew if you happen to know where that is.

Q: It's under Isom's documents.

Q1: Yeah.

A: All right.

Q: And if you change this right here to where you can see images instead of the names, it's like somewhere over here.

A: Okay.

Q: There you go.

A: There we go.

Q: And just when you respond, just so you...

A: Surely, yeah. Um, now what I'm referring to is the crude approximate sketch that I drew for Investigator Isom. To say precise is - I disagree with. Everything I stated that night is to the best of my recollection with approximates to the best I could give you.

Q: Okay. Um, and the - the question has come up and we just have to address is, whether or not you change your story regarding the actions or location of the suspect?

A: No.

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Investigative Notes:

During C-ASA Cappleman's Internal Affairs Interview, she stated she had a meeting before the Grand Jury with Sergeant Davis and Mr. Webster. In the meeting, she was told Sergeant Davis planned to change his version of events. The change pertained to the location where Mr. Sharpe stood when he turned and pointed the firearm.

C-ASA Cappleman was asked again in the interview if Sergeant Davis changed his statement or account of the incident from the night of the shooting. C-ASA Cappleman answered, "Since the incident, since the shooting? Yes, I think he changed his position in reference to where the suspect was, as I mentioned previously." C-ASA Cappleman was asked if there was anything else changed besides where the suspect was located. C-ASA Cappleman answered, "No, other than that, his testimony was consistent with the accounting he gave law enforcement."

Investigator Hubbard asked C-ASA Cappleman if there was discussion to explain why Sergeant Davis changed his statement regarding the position of the suspect. C-ASA Cappleman answered, "No. I hadn't confronted him about the issues surrounding the position of the suspect. I hadn't offered him any information about the reenactment that was done, or shown him that video. So, either he found out about that and was adjusting his statement in accordance with that, or he simply, as he testified, went out to the scene and after looking at the scene realized that he was incorrect about that in his initial statement."

Q: Okay.

A: What I did do was be able to clarify or zoom-in the approximates, after visiting the scene the next day.

Q: Okay. Um, and the visiting the scene, the - are you certain it was the next day, 'cause we just..

A: Yes, positive.

Q1: Next day of when?

A: I'm sorry, the day after the interview. The [CID] interview occurred on the 7th, this was on the 8th.

Q: Okay. Um, and the follow up to that was, was the original information you gave CID truthful?

A: Absolutely, to the best of my recollection and ability at that time.

Q: And how many times have you visited the scene since the shooting?

A: That one.

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Q: Revisited?

A: The, the 8th, um, that's it. I haven't been back by since. Since, since we - other than discussion we've had here. I didn't go back after the 8th that I recall. Um, and you asked the question, changing statement. As I recall the - Georgia Cappleman's being questioned in regard to this and that similar statement, her response was my testimony or the substance legally the same.

Q: Okay. Um, and that was - okay. Um, in your CID interview you gave a detailed description of the firearm the suspect possessed. Have you ever changed your statement regarding the firearm?

A: No.

Q: Was the information you gave CID, uh, regarding the firearm truthful?

A: Absolutely.

Q: Is there any chance the firearm did not look exactly as you described?

A: Chance? Chance is a broad word. To answer the word - with the word chance, the answer's yes.

Q: Okay. Is there any way you could have mistakenly believed the suspect had a firearm when he did not?

A: Any way, again, that's a broad word. It is my firm belief what I saw that night was a firearm.

Q: Okay. On January 13, 2015, a reenactment was done by members of CID. How did you hear about - how did you find out about the reenactment taking place?

A: Uh, I believe it was with the, uh, SAO.

Q: All right. Who told you the reenactment happened?

A: Uh, if I recall correctly, it was with the, uh, Georgia Cappleman - we had a pre-meeting.

Investigative Notes:

Sergeant Davis' statement conflicts with C-ASA Cappleman's statement.

Q: Okay. Uh, when did you - is - is that when you first saw the reenactment?

A: I think the first time I saw the reenactment was here.

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- Q: Okay.
- A: Uh, I may be wrong about that. I learned at some point in time there was a reenactment. When it was precisely, I - I don't recall. I - I point to that because there's a point in discussion I know we went over our interview, or my CID interview, that is. Um, but I don't recall how I got back at - I was informed about it.
- Q: Okay. Um, and there were two video files. Did you get to watch both video files?
- A: Yes, I did.
- Q: Okay. Do you believe Investigator Isom recreated a comparable distance the suspect traveled from you before turning and pointing a firearm at you?
- A: Absolutely not.
- Q: Okay. Why - why do you say not?
- A: Go back to...
- Q1: I'm sorry, I think you misspoke and I'm sorry to interrupt, but you said the suspect fired at him. Just make sure that you answer that question.
- A: I'm sorry.
- Q: Oh, no, I thought I said pointing a firearm at you.
- Q1: Oh, okay. I thought you said...
- Q: Oh, pointing.
- Q1: ...fired - fired at you, I'm sorry.
- Q: You can just X that out. (Referring to something on the computer)
- A: Actually I want to use the one (unintelligible).
- Q: Oh, and return it?
- A: Yeah.
- Q1: You're showing the exhibit again, the map?
- A: Yes, sir. See I'm on Windows 8, so I get confused.

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- Q: There you go.
- A: What I'm referring to is through Isom's documents.
- Q: And you - we've rotated it so...
- A: Yes, to the...
- Q: ...north is pointing north.
- A: North is pointing north. If you see the line I have drawn here, the arrow.
- Q: Mm-hm.
- A: It's showing what I was indicating direction of travel path. As I recall from Isom's, from the reenactment, Investigator Isom traveled like so, like so - almost making an L.
- Q1: Can you be more specific so that the recording can help me understand what you're pointing at? 'Cause I mean you're talking and they can see, but the recording can't see.
- A: What I'm saying is that the suspect ran from - in essence - is the vehicle's - suspect vehicle's right rear corner, in a more linear path direction to the northeastern corner of the houses - do you know the address?
- Q: Um, I...
- A: The house that's at the bottom of the diagram - I think it's 1100 Seminole.
- Q: In essence, uh, you're saying that Investigator Isom's path was not the path of the suspect?
- A: Correct.
- Q: Okay. And in relation to Investigator Isom in the video, was he anywhere near the direction the suspect went?
- A: No. As described, he took a L - takes an L-shaped route. The suspect took a diagonal route.
- Q: Okay. In the video could you see what Investigator Isom was doing whenever he got to the point where he stopped?
- A: To a degree - the quality of the video is horrible.

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- Q: Okay. What could you see Investigator Isom doing?
- A: Specifically, he was standing back in the corner. Um, I'm - I'm gonna say at this point that video I do not believe is representative of what I would see. You can't - the suspect's vehicle is not even in focus in that video.
- Q: Okay. Do you believe the weather - the weather conditions on the day of the reenactment provided a better setting to see the - see further than the night of the incident?
- A: Say that again, please.
- Q: Do you believe the weather conditions on the day of the reenactment provided a better setting to see further than on the night of the incident?
- A: No, it was actually worse.
- Q: Okay. Uh, why do you - what makes you think it's worse?
- A: What I have - and you'll be provided a copy - what I'm reading from is a[n] email, chain of emails in which I'm having a discussion with a David Zierden.
- Q1: Spell his name.
- A: Last name, Z as in Zebra, I as in Ida, E as in Echo, R as in Robert, D as in David, E as in Echo, N as in Nora. He is the actual - the State Climatologist. He was referred to me by Professor Peter Ray of the Florida State University Meteorology Department. And I asked him a very specific question, and he did the research for me. The question was this. "I'm looking for information as to cloud cover that would impact the difference of usable light. An outdoor event occurred on 01/04/2015 at approximately 7:20 pm. A video recreation of this event was done on 01/13 - 13/2015 at approximately 7:30 pm. One difference I have discovered between these two events is the moon phase. On the 4th we had a full moon, on the 13th the moon was in a last quarter," parenthesis, "(I'm presuming 50% visible)," end of parenthesis. "Realizing cloud cover also has an impact on visible light, I'm looking for information as to the mentioned dates between 6:30 pm and 8:30 pm. If there are any other weather-related conditions I should be - any other weather-related conditions that should be considered, I would appreciate your input." His response was, "On the evening of January 4th the moon was full, 100% visibility surface illumination. Moonrise was at 5:45 pm. So by 7:20, it would have been fairly high in the sky, giving a sufficient amount of light. However, the weather station in Tallahassee Airport reported overcast skies, light rain, beginning at 9:53. Based on these observations, the direct moonlight was blocked by heavy cloud cover, but some light still filtered through. The clouds, just as sunlight

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on a cloudy day, there will likely be a fair amount of artificial light reflected by the clouds, depending on how close to the location there's a heavy development, streetlights, shopping centers, etcetera. On the evening of the 13th, the moon did not rise until 1:38 am in the early morning of the 14th, so there was no light for the moon. The skies were also overcast on this evening. So there might have been some illumination from the refraction of artificial light, just like on the 4th. Based on similar cloud conditions, the full moon on the 4th, no moon on the 13th, we can confidently conclude there's noticeably more light on the evening of the 4th. However, I can only speak in general terms, not put concrete numbers to it as to a percentage." Additionally, looking at the videos of that night, as I recall, the house to the left of the path of travel had two exterior white lights on the southern side. The house to the right had a white light on the porch. I do not recall seeing the lights in the video. Additionally, there's a white fence behind the path of travel of the subject that would have additionally illuminated or helped reflect light. The house to the right is light gray and has white trim, which also reflects light. The Moon, the shopping center from the front of The Moon, all relatively close, all those lights were on. Myers Park, those lights were on, so there's gonna be additional light, manmade light reflecting as well. To add to that, there are two citizens. One that was to the right and south of me that saw the described - as they described in their own terms though, the movements of the subject as well. One might have been a little closer or the same distance, the other one was significantly further, and she was able to see the turning motions as she describes in her statement, and those subjects will be... Ms. Ella Smith, who was in the intersection of Maple [Drive] and Seminole [Drive], reports the suspect running and twisting as he goes between the houses. Then, Ms. Hensley reports the subject zig-zagging.

Q: Um, I don't think there was any disagreement as to the suspect running from you or the - the manner they ran from you. Um, just so you know, uh, I don't think, uh, there was ever a disagreement with that, whether or not he actually did. Um, but just a follow up, uh, did you hear the interviews of Sergeant Boccio and Forensic Specialist Yao?

A: Yes, I did.

Q: Uh, they say that they cannot see a firearm, let alone the type of firearm Investigator Isom was holding.

A: Yes, sir.

Q: Do you agree with that?

A: I cannot attest to their interpretations of what they saw. I do not know their eyesight qualifications or vision, whether their eyes were able to adjust or the conditions - in fact - I will state in my opinion the

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conditions were not re-established. The conditions of the night in which I fired my weapon, there's a significantly amount - more greater [sic] light. As I recall from the video as well, those external lights of the houses were not there as well.

Q: Okay. Uh, was it raining the night of the incident?

A: It stopped raining.

Investigative Notes:

According to the National Oceanic & Atmospheric Administration, on January 4, 2015, there were 1.62 inches of precipitation, but none on January 13, 2015. In addition, the weather conditions on January 4, 2015, were intense enough for a tornado watch to be in effect until 6:00 pm by the National Weather Service.

Q: Okay. And on the reenactment video, was it raining that night?

A: I don't recall that it was - there was no reason to believe it was.

Q: Okay.

A: The other thing I'll point out is what they were looking at was the path in which Investigator Isom was walking, which was significantly different than the path in which I am describing, where it's also shown on that diagram, the distance in which they were assuming where they finally stopped, the Investigator finally stopped was the furthest possible distance.

Q: Okay. Um, in that instance, um, Forensics came the night of the incident and measured a distance from the driver's tire to the sock. In your CID interview, you identified the sock as being the place where the suspect turned around. Most importantly, because you were saying that he spun around and his toe was pointed, he would come out of the sock, um, and that was measured that day. Um, so, I just want to clarify that you said he was at the mo- at the absolute furthest point, yet with their measurements, they're saying that he was at the exact point. Um, setting aside the fact that, uh, I know you said that certain - certain lights were not on when they should have been on as they were the night of the incident. I just want to point that out to you, that Isom was at the measured distance of where the sock was located.

A: Understood. Also point out, that was an approximation, and I've had the ability to refine that approximation since then. At no time was I ever aware that this was the concern, or that anything of the concern of this type was avail- or out there, otherwise I'd have been more than happy to address it, or cooperate any way that I could.

Q: Okay. So, was - was the suspect where the suspect's sock was when you

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fired?

A: He was closer to me than the sock.

Q: Okay. So in the CID interview where the sock was identified as his location, as I understand it today, he was not at the location where the sock was, he was actually closer?

A: That was his ending location when he was going around the house.

Q: Okay. Did you - did you fire at him when he was at the sock?

A: No, sir.

Q: Okay.

A: I fired before that.

Q: Okay. Now when Assistant State Attorney Cappleman was interviewed by us, um, she informed us or told us that there - you were going to - or that someone during that meeting told her that you believed the suspect was closer when you fired than at the orange sock. Um, did you ever inform TPD investigators of the - the change in your story?

A: It's not a change of story, sir. There's approximations and I was able to refine those approximations after visiting the scene. At the same time, I did not know or I was unaware there was any concerns of what I had testified to or stated. At the same time we left the door open, if any questions or anything, to please reach out.

Q: Okay. Um, did you tell anyone in CID that - because from hearing interviews and everything, uh, it seems - it seemed pretty concrete that the location where the suspect was when you fired was the orange sock, because that was a marker. Um, in the end and today you've told me the suspect was closer than the sock, the actual sock. Whether it be approximations or whatever, did you guys ever notify CID that the suspect was closer than the orange sock?

A: No, sir.

Q: Okay. Did you knowing the reenactment occurred - did you knowing the reenactment occurred, cause you to change your story?

A: Absolutely not. I was not aware of that - I can't recall when the reenactment occurred. When I was able to refine my approximations was the 8th, when I was out there, seeing the vehicles or the tire marks, seeing the strike marks in the dirt that were closer than I was. [I was] able to see the scene clearly and after nights of rest, I was able to redefine

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- not redefine, I was able to clarify the approximations.

Q: Okay. Uh, if you could do anything different in regard to this incident, would you and what would it be?

A: That's pretty broad. Um...

Q: We ask it to - in my cases, I ask it to every person who's been - sat across this table from me, to give them their chance to say if they could change anything.

A: One of the things I do as a professional, as a supervisor- Lieutenant Outlaw and I do this quite regularly - no scene, no circumstances, no investigation is ever done completely, precisely as it ever could be. So we sit back, 20/20 hindsight and see what could be improved. In this case, you're asking anything I would change? Knowing what I know today, what - I wouldn't change my actions. What I am told today is that there's no radio transmissions of me putting out a gun, knowing that today, that would have made a change. That's not taking away that I still believe that I did. I have to defer to greater - greater things. I believe I did. The changing of things? I mean, I look at this way on this case and for this situation, I did the best. I did it safely, I got everybody home. We were asked - we were attempting to capture a murder suspect. It's still my belief he might have been, because there's an identification that Officer Amos [Amison] made of the suspect that we don't know if it was Kenny Sharpe or Deondrea Hudson. I - I don't know. There's another change. I - I don't know how else to really answer that question.

Q: Okay. And my follow up to that is do you - and I believe you just answered it - do you believe you made every effort to insure the safety of your subordinates and other officers who assisted with this incident?

A: Yes.

Q: And if you were involved in a search for a suspect, would you want to be made aware the suspect pointed a fire- the suspect was armed with a firearm and pointed the firearm at another officer?

A: Yes.

Q: Do you believe an officer has a duty to warn other officers of dangers they - that they observe?

A: Yes. I believe I did those things that night.

Q: Is the word "threat" synonymous with - with "armed with a firearm and pointing it at another officer"?

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- A: We covered that. The answer is the same, no.
- Q: Okay. Is there anything you would like to add which we haven't - that you believe is pertinent, but we have not yet discussed? And we are gonna go around the room, but I just want to give you the opportunity.
- A: If I may if this - if it's okay with you, defer to the end since I've been talking all this time.
- Q: Do - do what again?
- A: Defer to the last person considering I - since I've been talking all this time?
- Q: Oh, yeah, we're gonna go around. I just wanted to - first I give you the option, and...
- A: And if it's okay with you, I'd like to defer and then...
- Q: Well, yeah.
- Q1: So you don't have anything to add, is that what you're saying?
- A: Yeah, just let them...
- Q: Okay.
- A: ...I can cover anything else. 'Cause I expect it might be awhile.
- Q: Is it - is it - well, first I have to ask you, is it okay if...
- Q1: I'm gonna [going to] have to object to that. That's my personal policy. I mean [Florida Statute] 112 says one investigator, and I think that's just - I - I - that's my personal policy.
- Q2: I - I'll have to write them out for you.

*****RECORDED BREAK*****

- Q: All right. Resuming.
- A: You don't mind, you give me the oppor- take the opportunity back to ask the questions or say some additional...
- Q: Yes, that - that was, uh...
- A: Okay.

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- Q: Yeah.
- A: All right.
- Q: Well, you mean asking me questions?
- A: Or - your final question to me was, was what? If I had anything else to add?
- Q: If you - well, yeah, well, if it was - if you would allow him, but we'll go back to you, that's totally okay.
- A: Right, prior to that.
- Q: Mm-hm.
- A: I think we'll, um, yeah, there's a couple things I'd like to point out, and starting with Investigator Isom's statements as I recall them. He states Officer Schwab was firm and clear that I told him nothing. However, in the three interviews, [Investigator] Isom with Officer Schwab, he just states that he did not recall what I told him, the sirens were loud, he could not hear, and but in his written Use of Force [Report], he says I told him I shot at the suspect, okay. So there's variations of that as well. Um, going a little further (unintelligible reading to self). In which Investigator Isom was interviewed, he was asked questions as I was regarding the gun and importance, things of that nature, and things would change as well. Uh, he said that he had jumped to the conclusion the suspect had a firearm. Quote, "It's logical to assume a firearm was used by a homicide suspect." When asked if anything different would have been done that night, if he had been told prior, as he states in the interview of a gun, quote, "No real difference." Now the scene, initial investigation was handled. Um, with or without a proffer. In the case of proffer, it would have done no good that night, no difference. He also states that Sergeant Davis is the subject of a criminal investigation. We know that. As such, I am subject to criminal investigation, but also as such I try and to proceed and be as forthcoming as all possible in this entire investigation. Once Officer Schwab also stated to him that - Schwab is likely he heard - likely heard something, sirens were overpowering his hearing. Schwab immediately runs to the area to which I pointed, yet later it goes to I told him, not just pointed, but I told him that I fired a weapon. Um, Investigator Isom states the only lighting - this is one of his initial observations - the only lighting was my headlights, which were pointed more left. The video of the in-car Mavericks shows that the security lights, the house to the left that I referred to, two of them, the lighting on the porch, yes, there was streetlights as the cars were driving up there. Those weren't taken in consideration in his statement.

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- Q1: Sergeant Davis, you need to answer questions here today okay so please, answer questions. Okay?
- A: Yes, sir.
- Q1: We'll be here all day if you're gonna recreate these - I'm not trying to be offensive but you're reading - you're reading from your notes on the exhibits, right?
- A: Yes, sir.
- Q1: Okay. The exhibits are in - they're in the record, right? All the recordings? Okay.
- Q: Okay.
- A: Go ahead.
- Q: Um, and I'll ask these - these are, um, the questions that Investigator Hubbard had, and I'm just gonna relay them. Uh, why, when you identified Deondrea Hudson at the hotel, why didn't you call for backup - when you identified Deondrea Hudson at the hotel, why didn't you call for backup?
- A: As I believe I conveyed, I thought I'd conveyed it completely, there was a fluid transition in which he exits the room, he's in the window, he exits the room, he goes back and forth. As he makes his final to the stairwell, that's when I go, "This is him." I still want to be double sure. We get to the Marathon, the lighting's even better. I can see him clear - it's him. At the same time, I'm bringing people in. I did not know if he would go a different route than the Marathon. I didn't want to bring a whole bunch of people on this property either. I knew once I said "This is him," I was putting up a flag, I was calling every resource in the city and probably a lot of people off duty, and that's why it wasn't called early.
- Q: In your CID interview you said you only perceived a threat to - you said you only perceived a threat to [Lieutenant] Outlaw, did that happen?
- A: I think that's what's stated to me, and the question is if I said a firearm. And at that time, so that I would not misspeak, what I referred to is what I had to refer to, their statements. Remember, I was - I was still very emotional at that time. I'm not making any excuses. I don't want - I don't want to make any misstatements. I want to be as factual as I can.
- Q: All right. In the [Officer] Schwab CID interview he said you never told him the suspect, uh, had a firearm. Are you sure you told Officer Schwab the suspect had a firearm?

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A: Yes, sir.

Investigative Notes:

Sergeant Davis' statement again conflicted with his CID interview.

Q: Okay. You have identified three people who you told the suspect was armed, however, the majority of the officers state they were not informed. Do you believe it is your responsibility to insure everyone is informed?

A: Majority of what officers?

Q: That responded to the incident.

A: Okay. Uh, of the time of the incident, and there's been other 50-some odd interviews. As I recall those playbacks, a lot of them were not there in that first ten minutes or so before Lieutenant Outlaw took over. Specifically to that, let me refer back to my notes, please. Lieutenant Abbey states in his interview at 4:28, "I do recall that a firearm was relayed in response." "Did you hear Sergeant Davis say on the radio of the suspect having a firearm?" "I was aware the suspect was on the ground and armed. At 5:50, "I heard the information restated that he was armed." At 6:40, he is affirmative. Lieutenant Outlaw told him the subject was armed, pointed the firearm at myself. There are - at 4:22, and this is, uh, [Officer] Robbie Clayton's interview, "Sergeant Davis says something. I do not recall what it was." Uh, 13-minute mark, he states he's recalling that Sergeant Bell states CID is doing canvass because a firearm was dropped. At 5:55 he says, "He may have told me." On the 11-minute mark, "It may not have been him, it may have been [Officer] Schwab." Then we go to Officer Underwood's, at 5:35 in his interview, he was asked if he ever heard, told or overheard third hand. He says yes, in third hand party conversation he was told there was a firearm that night. Sergeant Couch, 3:15, into his interview. Heard it over the radio, suspect was armed. Sergeant Bell, 7:30 at his interview. "During the incident were you informed subject was armed, either in person or on the radio?" Is the question. "Yes, I was informed he was armed." Officer Humphreys, 3:20 in his interview. "I believe there was some chatter, the radio, he was armed." There are other similar statements as well. Go to Sergeant Simms at 3:30 in his interview. "I believe I was made aware over the radio the suspect was armed." 3:50: "I do recall it was stated. I cannot remember who or how it was recalled." So to say that a majority of people didn't, I'd have to disagree, uh, I understood from the statements, there were a number of people that say they heard it. They said they were informed.

Investigative Notes:

The radio recordings [Exhibit 8] reflect Sergeant Davis making numerous statements while on scene. None of the Sergeant Davis' statements involved him

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giving information the suspect was armed with a firearm.

Officer Robbie Clayton stated Sergeant Davis said something to him, but he could not hear what it was, as Officer Clayton was getting out of his vehicle at the scene. Officer Clayton estimated he was 40-50 feet away from Sergeant Davis at this time. For Sergeant Davis' claim to be true, he would have to state this loudly enough for Officer Clayton to hear him over a significant distance, yet it was not recorded on Officers Martinez's and Schwab's MAVRICS microphones, and they did not hear him state it.

Q: Okay. In your CID interview you state that you didn't say the suspect was armed, that it was very much implied. What do you mean by it was implied?

A: I was told that I did not state it. I was told - this is my recollection of the interview - that it did not occur. I - I did not believe it. I still don't. I recall saying something, saying he was armed. I recall saying it to these individuals. To be told in this interview that I did not, I was just shocked - I just couldn't believe it. So they only- I don't like that statement. It was out of frustration, that I could not believe I did not.

Q: Okay. All right. If it's okay with you, I'll turn it over to Mr. Webster and give him his time, Mr. Webster in making any statements or ask you any questions for you to answer.

Q1: Excuse me a minute.

Q: Okay.

Q1: You were asked earlier, Sergeant, about whether or not there would be any reason to, um, and I guess it's Officer Trowbridge - or Investigator Trowbridge, would have misunderstood your conversations. Were you like face to face with Investigator Trowbridge or Officer Trowbridge when you were t-talking to him...

A: No, s...

Q1: ...on January 4th?

A: No, sir, we used the cell phones.

Q1: Okay. What was he doing at that time? Was he working like you were?

A: He was taking care of some matters, and as I recall with his child of a personal nature, as well as wanting to get involved in this and trying to communicate with his superiors at the same time - he was multitasking.

Q1: Okay. But you're aware he was - but you know he was with his children?

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A: Yes, sir.

Q1: Okay. And was off on his own personal time?

A: Yes, sir.

Q1: All right. And you couldn't observe him, right, at that moment?

A: Observe - Investigator Trowbridge?

Q1: Right.

A: No, sir.

Q1: To know if there was something distracting her perhaps that would have diverted his attention from the conversation you were having about a homicide suspect you were surveilling.

A: That is correct, sir, I was not.

Q1: So when you were asked the question is there any reason he could have misunderstood, he could have been juggling when you were talking to him on the phone and you wouldn't have known it, would you?

A: That's correct.

Q1: Okay. He could have been doing anything with his children, his children could have been in a pool swimming for all you know, right?

A: Yes, sir.

Q1: Okay. So there actually could be a multitude of reasons why he would have misunderstood the conversation, correct?

A: Correct.

Q1: I mean there could be thousands, right?

A: Yes, sir.

Q1: Okay. So is it fair for you to speculate either way?

A: No, sir.

Q1: All right. Is it clear that on the night in question there were several communications that were misunderstood by various people?

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A: Yes, sir.

Q1: Um, are people's memories perfect?

A: Absolutely not.

Q1: Um, you referenced Officer Schwab talking about how he cleared the car. Did you see him clear the car in the MAVRICS video?

A: No, sir.

Investigative Notes:

The MAVRICS video does show Officer Schwab use his handgun (with an attached flashlight) clear the suspects' car as he went past it looking for Mr. Sharpe.

Q1: Okay. Do you think he was lying? Do you think he should be prosecuted for perjury for that missed recollection, if you will, his misapprehension?

A: No, sir.

Q1: Okay. Do you think he intentionally lied when he said that he cleared the car with you?

A: No, sir.

Q1: Okay. Um, now, there were some questions about why you would confer with [Investigator] Trowbridge before you a- before you went and got a map at the hotel, right? Do you recall those questions?

A: Yes, sir.

Q1: Okay. And that required you to go on the premises, right?

A: Yes, sir.

Q1: And it was your agreement with Trowbridge that you would not go on the premises without further coordination?

A: Correct.

Q1: So in coordinating to - with [Investigator] Trowbridge before you went on premises to get the map, that would be consistent with your understanding that you had with [Investigator] Trowbridge, right?

A: Yes, sir.

Q1: Okay. At any point did [Investigator] Trowbridge tell you, "If he leaves

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the hotel, don't pursue him"?

A: No, sir.

Q1: At any point did [Investigator] Trowbridge say to you, "You're not allowed to surveil him while he's at the hotel"?

A: No, sir.

Q1: Okay. Did the suspect's demeanor that night contribute to your belief that it was Deondrea Hudson?

A: Absolutely.

Q1: Was he acting suspicious, Sergeant Davis?

A: Yes, sir.

Q1: Have you had the opportunity in 28 years to recognize furtive movements or suspicious movements?

A: Yes, sir.

Q1: Okay. Now, did it turn out that the person was in fact Deondrea Hudson that you were monitoring and surveilling?

A: No, sir.

Q1: Who was it?

A: Kenny Sharpe.

Q1: Did Kenny Sharpe happen to have any warrants for his arrest at that moment?

A: Felony VOP warrants for fleeing and alluding.

Q1: Okay. So he was on the lamb they would say, right?

A: For quite some time.

Q1: Okay. And is that a reason for Kenny Sharpe to have been acting in a suspicious fashion that night perhaps?

A: Yes, sir.

Q1: Would his demeanor have been consistent with a person who had warrants for his arrest?

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A: Yes, sir.

Q1: Okay. When you called out on the radio that you were pursuing what you believed to be Deondrea Hudson, a homicide suspect, do you recall that, sir?

A: Yes, sir.

Q1: Is Investigator Trowbridge or does anybody on the CCU unit, do they have access to the radio traffic?

A: Yes, sir.

Q1: Okay. Do you know whether or not Trowbridge was listening to the radio when you called that out?

A: No, sir.

Q1: Okay. Do you know if anybody from CCU was listening to the radio when you called out that you were pursuing a homicide suspect?

A: No, sir.

Q1: Or following? Okay. Is it possible that they were?

A: Absolutely.

Q1: Was it reasonable for you to believe that people who needed to know were monitoring the radio traffic?

A: Yes, sir.

Q1: Was it reasonable for you to believe that while you were trying to maintain contact with a homicide suspect, that perhaps the Watch Commander might be getting in contact with the CCU folks to let them know that you were pursuing a wanted homicide suspect?

A: Yes, sir.

Q1: Okay. You're not the only person who's monitoring the radio, right? And you were busy, right, trying to actually surveil what you believed to be a cold-blooded killer?

A: Yes, sir.

Q1: Okay. Did you have a lot going on at that moment, sir, in trying to coordinate resources, backup, etcetera, to develop the plan that was

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discussed earlier in your question, while you were monitoring the suspect?

A: Yes, sir.

Q1: Okay. Is that why you announced it on the radio? Is announcing it on the radio, is that your way of keeping it secret, sir?

A: No, it's so everybody is informed.

Q1: Okay. Sir, your multitasking continued throughout, is that true?

A: Absolutely.

Q1: Do you think it's important, sir, to maintain surveillance of a known killer, as - as they're roaming through your patrol zone?

A: Yes, sir.

Q1: Do you think the citizens of Tallahassee would expect you to monitor a murderer as they were traveling through the streets of Tallahassee?

A: Yes, sir.

Q1: Do you think that you have a duty as a law enforcement officer to keep tabs on a murderer as they drive around the City of Tallahassee?

A: Yes, sir.

Q1: Okay. At any point did anybody give you any directions that would have absolved you of your duty to monitor a murderer as they drove around the City of Tallahassee?

A: No, sir.

Q1: Okay. At any point did anybody tell you, "If that murderer leaves that hotel room, Sergeant Davis, you are not to follow them"?

A: No, sir.

Q1: Okay. Did - you watched the videos here. Are you aware of anybody saying that they told you that?

A: No, sir.

Q1: Okay. Is it your understanding that as long as that murderer was confined to room 2-2-8 of the hotel, that you were to leave him alone, but if he started to go loose, there was nothing re-restricting you from

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following him, monitoring him, and if possible, arresting him?

A: Correct.

Q1: Okay. I mean, would it be consistent with your 28 years of experience that you would receive a directive that says "Ignore a murderer while they drive around the City of Tallahassee"?

A: No, sir.

Q1: Is that the common practice of the Tallahassee Police Department, to allow a murderer to just drive around the City of Tallahassee without being monitored or surveilled?

A: No, sir.

Q1: Okay. Now there was some discussion about what you would have done hypothetically if you had responded to the scene as the on-scene supervisor, right?

A: Yes, sir.

Q1: Is it your testimony sir, that you would have complied and followed General Order 63?

A: Yes, sir.

Q1: Okay. Is it your testimony that you did follow and comply with the requirements of General Order 63 in this particular incident?

A: Yes, sir.

Q1: Were you the officer involved in this shooting, Sergeant Davis?

A: Yes, sir.

Q1: And what, as the officer involved in the shooting, does General Order 63 require you to do?

A: To respond to any and every question of that of the supervisor who arrives on the scene.

Q1: Okay. And does General Order 63 outline those questions that the sup-on-scene supervisor should ask if necessary to insure officer safety or public safety?

A: Yes, sir.

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- Q1: Okay. And do those questions that the on-scene supervisor's required to ask if necessary to insure officer safety or public safety include questions about the suspect's description or possession of any weapons?
- A: Yes, sir.
- Q1: Okay. Did you answer every question that was asked of you by Lieutenant Outlaw?
- A: Yes, sir.
- Q1: Now you - you mentioned that you were also trying to coordinate perimeter officers while - after the shooting, right?
- A: Yes, sir.
- Q1: You were trying to make sure you weren't being flanked by the suspect who you believed was Deondrea Hudson?
- A: Correct.
- Q1: You were trying to monitor what Officer Schwab was doing as well?
- A: Correct.
- Q1: You were also trying to keep in mind and account for the other suspect who went the other direction?
- A: Yes, sir.
- Q1: And this other suspect that just - had that other suspect just engaged in felony conduct right in your presence?
- A: Yes, sir.
- Q1: What was that felonious conduct that you observed?
- A: High speed fleeing, eluding and reckless.
- Q1: Okay. Is that a second degree misdemeanor in the State of Florida?
- A: Yes, sir.
- Q1: Okay. Um, is that a serious felony offense in your mind, sir?
- A: Yes, sir.
- Q1: Okay. Um, and does the video also support your contention that there

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was a felony fleeing and eluding that occurred that night in your presence?

A: Yes, sir.

Q1: All right. So you had a felony suspect going one direction, and you had what you believed was a murder suspect going the other, is that correct?

A: Yes, sir.

Q1: Did you have any witnesses on scene who were screaming information in your direction in a frantic ma- fashion?

A: Yes, sir.

Q1: Okay. And were you also trying to coordinate those - those witnesses?

A: Yes, sir.

Q1: Is it important pursuant to policy, to identify witnesses and maintain some sort of contact with them?

A: Yes, sir.

Q1: Is that another one of the multi-tasks that you were trying to perform at this moment, sir?

A: Yes, sir.

Q1: Okay. And did that include also trying to se-sequester the witness with a buddy officer that - so they could maintain contact with that witness?

A: To keep the witness within reach, yes.

Q1: Okay. And at some point after the shooting, um, and before Lieutenant Outlaw came on scene, uh, did another civilian come up who was acting in an erratic fashion?

A: Yes, sir.

Q1: Who was that?

A: Yolanda Lynn.

Q1: And who is she?

A: She is the mother of Kenny Sharpe.

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- Q1: And did she inform you that she was the mother of a suspect?
- A: She informed me that she was the mother of the person who we attempted to kill and had shot. She had not informed me that she was the mother of Kenny Sharpe, so that just added to the heightened awareness.
- Q1: Did that cause you any concern that you were on scene now with a person who was claiming to be the mother of the suspect you had just fired your - your - your duty weapon at, sir?
- A: Yes, sir.
- Q1: Okay. And does that cause any sort of stress for an officer? I've never been in that situation. I mean I have to defer to somebody who's actually been in that situation, but does that cause any sort of stress or emotional response?
- A: Yes, sir.
- Q1: Okay. And have you ever been trained, as you've been working here with the Tallahassee Police Department on how heightened stress and high stress situations can impact memory or recall?
- A: Yes, sir.
- Q1: Okay. All right. So now we have the mother on scene. Did you think it was appropriate for you as the officer involved in the shooting to go hands on with the person who was purporting to be the mother of the suspect you had just fired at?
- A: I was able to avoid it.

Investigative Notes:

On Officer Schwab's MAVRICS video at 15:15, Sergeant Davis can be seen restraining and holding Ms. Lynn's arms behind her back until Officer Ouzts arrives to put Ms. Lynn in handcuffs.

- Q1: Okay. But did you think it would have been appropriate for you to do that?
- A: Not initially.
- Q1: Okay. All right. So was that another consideration that you were trying to muddle your way through?
- A: Yes, sir.

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- Q1: All right. What sort of training have you received from the Tallahassee Police Department on how to respond when you're the officer involved in a shooting, and the mother of the suspect you just fired at shows up on scene and starts confronting you?
- A: None.
- Q1: Where does General Order 63 address that, sir?
- A: It addresses in that the officer involved shall be sequestered to avoid such events.
- Q1: Okay. Did you just sequester yourself and allow the mother to run free on the scene, sir?
- A: Could not have done that.
- Q1: Why not, sir?
- A: I'm the only officer on scene. I sent four officers to assist the K-9 officer to go after the person I believed to be Deondrea Hudson, who'd be armed and wanted for murder.
- Q1: But why would you send four with a - with a K-9 track? Is it customary to send four officers on a K-9 track?
- A: No, sir.
- Q1: Okay. What's customary?
- A: Two to one.
- Q1: Two to one?
- A: One or two officers.
- Q1: Okay. One or two officers, so why four?
- A: 'Cause they're going after a murder suspect who had a firearm he'd just pointed at us.
- Q1: Oh. But was there any confusion at all amongst those four officers that was expressed to you as to whether or not the suspect they were pursuing was armed and dangerous?
- A: No, sir.

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- Q1: Okay. If anybody had asked you that question that night, would you have clarified any questions or concerns they may have had?
- A: Absolutely.
- Q1: Okay. And I know there's been a lot of interviews and a lot of testimony throughout this case, about the officer, the response that night and it was significant, right? I mean entire units were called in who were off, right, to set up perimeter and to assist, right?
- A: Yes, sir.
- Q1: Did you have an opportunity - did anybody tell you, "Hey, by the way, Investigator [Sergeant] Miller's squad is being called in"?
- A: No, sir.
- Q1: Did anybody say, "Is there any important information that - that you would like to relay to Investigator [Sergeant] Miller's squad..."
- A: No, sir.
- Q1: ...squad before the come on"? Okay, sir, so that didn't happen either, right? Um, but at any point did anybody come to you and say, "Hey, by the way, this guy we're going after, does he have a gun"?
- A: No, sir.
- Q1: All right. Um, and if there was any question about that, you would have certainly cleared it up?
- A: Yes, sir.
- Q1: And you never refused to answer those questions, did you, sir?
- A: No, sir.
- Q1: Okay. Now you heard Lieutenant Outlaw testify that he specifically did not ask you any questions in his recollection about whether or not the suspect was armed?
- A: Yes, sir.
- Q1: Okay. And according to his testimony he said he - he just didn't feel like it was necessary?
- A: Correct.

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- Q1: Okay. Um, and that would be consistent with every other interview you listened to, isn't that true? Because every other officer said they wouldn't have responded any differently? If you had specifically gone to them one by one and told them he was armed?
- A: Correct.
- Q1: And did you hear any officer express any doubt as to whether they would have responded differently in pursuing or tracking the suspect?
- A: No, sir.
- Q1: Okay. So in fact it would appear that Lieutenant Outlaw's assessment, that it wasn't necessary to ask that question, was in fact correct, isn't that true?
- A: That was the decision he made on that, yes, sir.
- Q1: Okay. Now with respect to the reenactment, sir. Um, I know that, uh, it would appear that - I believe it's - I don't know if it's - it's Forensic Specialist Yao was involved?
- A: Yes, sir.
- Q1: Right? And I believe Forensic Specialist Wilder was on scene at one point, and then she was kind of, uh, doing traffic control, right?
- A: Yes, sir.
- Q1: Well, according to her testimony at least, we weren't there, right? You were not there?
- A: No, sir.
- Q1: Um, just based upon what we had at our disposal here to re- to view and review, it would appear? Um, now did Sergeant Yao, did he - did he testify that that reenactment was done under forensically recognized, um, principles?
- A: No, sir.
- Q1: Okay. Did he testify that he himself was responsible for conducting that reenactment, to make sure that it was forensically sound and consistent with forensically recognized principles?
- A: No, sir.
- Q1: Okay. Did Forensic - did Forensic Specialist Yao testify that it was -

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basically that he had any input on how the reenactment was coordinated or conducted?

A: The majority of his responses were, "As I was instructed."

Q1: So somebody was instructing the Forensic Specialist on how to conduct a forensic reenactment?

A: Yes, sir.

Q1: Did - at any point did the interview or the - the reenactment, did it identify who it was that was the Forensic Specialist that was directing the Forensic Specialist on how to conduct a forensically sound reenactment?

A: It was revealed that Sergeant Boccio was the supervisor responsible for that.

Q1: So you - is Forensic - or is Sergeant Boccio a Forensic expert to your knowledge, sir?

A: Not that I'm aware of.

Q1: Okay. Yet he's directing the Forensic Inv- Specialist on how to conduct a forensic recreation?

A: That's what was stated, yes, sir.

Q1: Okay. I mean does that have any real evidentiary value to use as we sit here today or scientific - scientific reliability?

A: No, sir.

Q1: Okay. You were asked questions about whether or not you thought the reenactment was reliable. Is that one of the reasons why you discard the reenactment?

A: One of many.

Q1: Okay. Now, there were some - some questions here that you specifically said that the suspect was at where the orange sock was located when he turned. Sir, in your video, did you draw a diagram for Investigator Isom?

A: Yes, sir.

Q1: And you've referenced it - you referenced it in answering the questions that were presented by Investigator Boykin, correct?

A: Yes, sir.

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- Q1: Sir, do you recall specifically telling Investigator Isom that the suspect began his turn and completed his turn somewhere between the first big oak tree and where the sock was located?
- A: Yes, sir.
- Q1: Okay. And that was an approximate area, correct?
- A: Yes, sir.
- Q1: And you testified or you - you stated that during your interview and - and the criminal investigation?
- A: Yes, sir.
- Q1: That he was approximately located between the tree and the sock?
- A: Yes, sir.
- Q1: Okay. At some point were you able to reduce that overall approximate range?
- A: Yes, sir.
- Q1: Okay. When were you able to reduce that approximate range?
- A: The following day.
- Q1: And what caused you to reduce that approximate range?
- A: Visiting the scene at daylight, seeing some physical indicators on the ground where bullet strikes had been, and relaxing, letting my mind bring the events of the days prior together.
- Q1: Okay. You - you referenced some bullet strikes. What are you talking about, bullet strikes?
- A: There appear to be - I think it was referenced also in the other material, uh, a strike in the ground that was indicative of a bullet striking the ground, trailing linear, approximately 10 - 6 to 10'.
- Q1: Okay. And was that - that linear mark, bullet strike you're referencing, was that in line between your car and where the sock was located?
- A: Yes, sir.
- Q1: And was it before the sock or after the sock?

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- A: Prior to.
- Q1: Was it significantly closer to your car than the sock was located?
- A: Yes, sir.
- Q1: But was it beyond the tree?
- A: Yes, sir.
- Q1: Okay. And - and was it that evidence, the bullet strike that you saw the next day, is that what caused you to reduce the overall approximated range? And - and - and reduce it..
- A: One factor, yes, sir.
- Q1: Okay. Now, and - and you say that there's the linear mark that was left by the bullet, apparently. Um, now is that at all in line with the direction that Investigator Isom took in the quote, unquote, "Reenactment"?
- A: No, sir.
- Q1: Okay. Um, at any point did you tell Investigator Isom that the suspect went to the left of the big oak tree?
- A: No, sir.
- Q1: Or to the north of the big oak tree?
- A: No, sir.
- Q1: At any point did you tell him that he went away from you between the car and on the left of the big oak tree, and then make a right-hand 90-degree turn, past the oak tree in the direction of where the sock was located?
- A: No, sir.
- Q1: Okay. You drew an arrow on the map. Was that map - and did the arrow even suggest that that was the direction that the suspect traveled?
- A: Yes, sir.
- Q1: Did it or did it not?
- A: Excuse me?

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- Q1: Did the arrow that you drew on the map - it is there, it's on the exhibit.
- A: Yes, sir.
- Q1: Is it consistent with somebody going to the north of the oak tree and then making a right-hand turn?
- A: No, sir.
- Q1: Okay. So you - the arrow you even drew on there shows him - the suspect traveling in front of the oak tree?
- A: Correct.
- Q1: Okay. Yet Isom did not take that path in the reenactment, did he?
- A: No, sir.
- Q1: Do you have any explanation as to why Investigator Isom and [Sergeant] Vinnie Boccio - I guess - I guess it was Sergeant Boccio who decided on the suspect's path that was gonna be used in the recreation. At any point, were you informed as to why the reenactment involved, um, a suspect track that was not taken or not indicated by you?
- A: No, sir.
- Q1: Okay. Now you referenced - you went through and you referenced some of your notes with - and I think you cited some times where various witnesses interviewed in this case discussed the fact that they were aware the suspect was armed, right?
- A: Yes, sir.
- Q1: Could that information have come from anyone other than yourself, sir, that night?
- A: No, sir.
- Q1: Okay. So to the extent that any witness had knowledge that night that the suspect was armed, it would have had to have flown from you?
- A: From the initial, yes, sir.
- Q1: Okay. And you're aware that CID did a track for a firearm that night, right, an article search?
- A: Yes, sir.

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- Q1: And they came back the next day and did one, correct?
- A: Yes, sir.
- Q1: And you were informed or we heard in the interviews that they were called out because they were looking for a gun that was thrown down, correct?
- A: Yes, sir.
- Q1: Okay. And so once again, that information would - would have had to come from you, correct?
- A: Yes, sir.
- Q1: Now there were some questions about how you said that - or you, you know, you just perceived a threat and you didn't say anything about anybody being armed. Now that was what Isom represented to you to be true, correct?
- A: Correct.
- Q1: And at that point you had not talked to Lieutenant Abbey, right?
- A: Correct.
- Q1: Um, you hadn't heard the testimony of [Officers] Schwab and Clayton, and all the other officers who said they did hear that night that the suspect was armed, right?
- A: Correct.
- Q1: So if you'd heard that information before Isom - and put it this way, in other words, if Isom had informed you correctly that Lieutenant Abbey in fact knew for a fact that that - the suspect was armed, would that have impacted your answer, as far as perceiving a threat?
- A: Yes, sir.
- Q1: Now, as far as you know, Lieutenant Abbey's testimony, where he's adamant - he was asked several times, right, about whether or not he knew the suspect was armed?
- A: Yes, sir.
- Q1: And he maintained that, right?
- A: Yes, sir.

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- Q1: He never relented, did he?
- A: No, sir.
- Q1: Okay. So the record's un-rebutted that at least Lieutenant Abbey knew that night, and according to him he found out from - from Lieutenant Outlaw, that the suspect was armed with a firearm and had pointed it at you, right?
- A: Yes, sir.
- Q1: That's un-rebutted in this record, right?
- A: Yes, sir.
- Q1: Okay. I mean - and to the extent that the other officers also said they heard some - that night they heard it, they heard from third persons, and you went through the list earlier at least of some of them, and I think there were more that you just did not, uh, reference. Um, are you aware if they altered their statements at all at any point?
- A: No, sir.
- Q1: Okay. So their testimony is still good as far as you know it? They don't know - you're not aware of Lieutenant Abbey altering his statements, are you?
- A: No, sir.
- Q1: All right. Um, and if he did alter his statements, I mean that would clearly be - probably something for somebody else to determine, right?
- A: Yes, sir.
- Q1: All right. Um, I mean that would be frowned upon, right?
- A: Yes, sir.
- Q1: Okay. Investigator Boykin, I've got some exhibits that I would like to introduce. I've got a letter for you that kind of outlines the exhibits.
- Q: Mm-hm.
- Q1: What I expect their intended utility to be. Um, primarily I've included materials that are related to officer-involved shootings and high stress situations and what it can do to recollections, recall, memory. I've included some FDLE guidelines, um, and lesson plans on the importance

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of sequestering an officer involved in a shooting, um, and then carefully limiting questions on scene to the officer who's involved in a shooting, uh, due to the stress, um, that is invoked through, uh, a life-threatening situation, and how it can impact their ability to recall correctly and accurately at that moment. You'll also see - and there's an FBI bulletin include-included in there, um, where officers involved in shootings have gone through what can only be described as extraordinary, um, recollections. Um, there's one kind of anecdote that's included by an officer involved in a shooting where he says that during the middle of the shooting, he glanced over at his partner to see if his partner was okay, and - and as he did he saw beer cans floating through the air, and he was blown away by the fact that there were beer cans floating through the air as he was involved in a shooting, and then he saw that the word "Federal" was written on the bottom of the beer cans, and he realized they were actually shell casings that were being ejected by the officer's gun next to him, his partner who was firing. Um, obviously, that's probably not within the normal human experience, but of course getting a gun pulled on you and pointed at you is not also within the normal human experience. There's also an anecdote in there from an officer who was involved in a shooting who talked about how at one point during the shooting he looked over and saw his partner being sprayed with bullets and going down in a spray of blood, and then when the firing had stopped, he went over and saw his partner was standing upright and was perfectly fine. And that was absolutely not consistent with what his recollection was at the moment during the shooting. Uh, there's a story - an anecdote in there about another officer involved in a shooting who called his wife apparently in the middle of the pursuit of a dangerous suspect right - just prior to the shootout. He had no recollection of making that phone call or what was said during that phone call, but his phone records did corroborate that he did make the phone call. Um, there's several like that and I mean this is - I could go on and on and on with studies that talk about this. Um, I don't believe any of those officers were charged with making false statements or administratively sanctioned or anything. I don't know that for a fact - maybe they were, but I doubt it just by tenor - by the tenor of the study. But nonetheless, I offer that for whoever cares, that wants to read it and maybe understand, um, how human beings under these sort of, uh, stressful situations may actually have the ability to do things, recall things, see things that other people may not understand, um, under normal circumstances. I've also included for, uh, whoever's review, um, some materials, um, related to the weather that night, the emails that - that Sergeant Davis referenced or included in there for you, uh, with respect to hopefully rebutting the, uh, the allegations that the reenactment was in any way sound, forensically sound. Um, as well I've included in there, um, like I said before the FDLE lesson plan, and that actually is consistent with General Order 63, um, that's at issue here, insofar as it basically speaks to the importance of allowing the officer involved in a shooting to be sequestered, and then not peppered with a bunch of

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questions that night, unless absolutely necessary, and try to show deference and respect for an officer who's just had their life threatened. Um, I've included that. I've also included for your review or whoever's review and considerations in case law with respect to perjury, because that certainly seems to be the direction we're heading, by virtue of the most recent allegations that were raised. Um, I've included in there, I believe it's Doyle v. State, which is a case that stands for the proposition that if an agency is attempting to discipline an officer or an employee based upon an allegation of untruthfulness in an administrative proceeding or otherwise, that such statement must be considered within the prism and context of a perjury allegation, uh, because perjury is applicable to an allegation of untruthfulness in an administrative context. As such, the 1st District Court of Appeal, I believe by Judge - through Judge Van Nortwick went on to explain that if you're going to consider perjury, if you're going to seek to discipline an employee under an allegation of untruthfulness, altered statements, whatever you want to call it - you have to meet the criteria as outlined in the case law and the law, for an allegation of perjury. As such, perjury actually requires - and Doyle goes into this - I've also included Vargas v. State, um, a third DCA case, and perjury requires a statement of fact. Um, it must be a clear cut factual statement. It cannot be an approximation. It cannot be a belief. It cannot be an opinion, and the law is crystal clear on this. It's beyond reproach, beyond doubt that that is the burden that is going to be imposed on any agency who wants to try to discipline an employee under an allegation of untruthfulness, so my argument, for whatever purpose, would be that the allegation that Sergeant Davis's testimony, um, his approximation and he reduced it or he increased his approximate area, that that would be first of all his belief, uh, based upon his recollection. He never testified that he got a laser out and shot it or anything like that. Um, and as such it would be immune from an attack, as being untruthful for administrative disciplinary purposes, and to the extent that anybody's going to take the position that, uh, Kenny Sharpe is to be believed over Sergeant Davis, and therefore Sergeant Davis, to the extent that his - his recollection departs at all from the testimony of Kenny Sharpe, um, I would just suggest that - there's a case in there, I - I believe it was, um, it wasn't Lee - I'm sorry, but it's the last case that's in there. Um, Yarborough, I believe it is v. State, which stands for the proposition that perjury cannot be based upon the testimony of one witness versus another, a he said, he said, she said, she says, is not enough to sustain perjury allegations - there has to be more than just one - somebody else saying that guy's not telling the truth, and that case law actually originated from the Florida Supreme Court in the 1920's - I mean that's how long that law's been well settled in the state. So, that's what I offer. Um, I do appreciate all your time. I know that you guys have let us have a lot of time in here, and I appreciate it, and that's all I have to say.

Q:

Okay.

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- A: Have either one of you been through In-Service [Training] yet?
- Q: No, I...
- A: Have you been through In-Service [Training]? Okay. Uh, bias - procedural justice, bias training, do you recall that block?
- Q: Mm-hm.
- A: There's a specific block in there in which it discussed crime by crime and precipitators and seeing objects quicker, sooner, or lesser, do you recall that? And what it basically states is that...
- Q1: (Unintelligible) ask him questions.
- A: ...if a gentleman sees a person, the subjects, sees a - with the flash of black male and a violent crime-related object instant flash, and they take a very grainy picture to a very bright picture, that violent crime item got in these examples you see a whole lot quicker. They say a white male, a female or a black female. That's a study that's referenced in that, with a note of that as well.
- Q: Okay. Um, just want to end. Is there anything else you'd like to add which we haven't discussed but you believe is pertinent? I know you just mentioned, uh, an in-service block.
- A: Not at this time.
- Q: All right. Uh, have you spoken with anyone else besides your representative, uh, regarding your witness statement?
- A: In regard to today's statement? No, sir.
- Q: All right.

Investigative Notes:

At the introduction to Sergeant Davis' initial Internal Affairs Unit interview, he was asked the following questions:

- Did you have time to review all the exhibits and policy provided?
- Do you need more time to review anything?
- Do you have any questions about any of the exhibits?

Sergeant Davis agreed he reviewed all the exhibits and policies, he did not need more time to review anything, and he did not have any questions regarding the exhibits. As the interview progressed, questions were asked related to the events at the Marathon Gas Station. It was discovered Sergeant Davis had not reviewed the Marathon Gas Station's security camera footage [Exhibit 30], contrary to his earlier

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statement. The interview continued to its conclusion. It should be noted during the interview, Sergeant Davis was told he had the option to step outside of the interview room (away from the digital recorder) and speak with his attorney, Mr. Webster.

On June 29, 2015, at 2:02 pm Sergeant Davis was contacted regarding his option to return and view the Marathon Gas Station video. Sergeant Davis did not answer his telephone and a voicemail was left. The voicemail included the reason for the phone call, the opportunity to come to the Internal Affairs Office to review the video on July 1, 2015, at 9:00 am, and a request for Sergeant Davis to return the call.

On June 30, 2015, at 9:46 am Sergeant Davis called back and confirmed he would be available to review the video on July 1, 2015, at 9:00 am. That evening, a serious thunderstorm caused a power outage at the Tallahassee Police Department.

On July 1, 2015, at 8:06 am the Tallahassee Police Department still did not have normal power restored. Sergeant Davis was contacted and informed of the power outage. At 1:22 pm, Sergeant Davis was contacted again (since the power was restored) to provide him an opportunity to review the video on July 2, 2015. Sergeant Davis stated he would not be available on the morning of July 2, 2015, and would only be available after noon. Sergeant Davis agreed to conduct this review at 1:30 pm on July 2, 2015.

On July 2, 2015, at 1:30 pm Sergeant Davis had not arrived. At 1:52 pm, Sergeant Davis contacted the Internal Affairs Unit and stated he was in the parking lot at 1:30 pm, but Mr. Webster was running late due to personal business related to storm damage from the June 30, 2015, storms. At 2:50 pm, Sergeant Davis and Mr. Webster arrived.

After reviewing the exhibit, Sergeant Davis was given the option to go back on record for another interview. Sergeant Davis wished to go back on record under the conditions that all questions asked of him specifically related to what occurred in the Marathon Gas Station Video. Sergeant Davis and Mr. Webster were informed he did not have the option to dictate the questions asked of him or know the questions before the interview was conducted. Sergeant Davis and Mr. Webster were given time to consult before deciding on whether they wished to go back on record. After deliberating in private, Sergeant Davis and Mr. Webster stated Sergeant Davis did not wish to go back on record and provide any additional information.

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Allegation(s):

Violation of General Order 46: Rules of Conduct

Preface - Recognizing law enforcement personnel occupy a special place in American society, the City of Tallahassee and the Tallahassee Police Department expect a high level of professional and personal conduct from all Department members regardless of rank or assignment. All members shall maintain trust, loyalty and commitment to the Department and the community.

I. GENERAL RESPONSIBILITIES/GUIDELINES

- A. Members shall maintain trust, loyalty and commitment to the Department and the community.
- B. Members shall exhibit a high spirit of cooperation and shall take appropriate action to aid any police officer in danger.
- C. Members shall at all times take appropriate action in accord with departmental orders, rules, and procedures.

II. ACTS OF MISCONDUCT

The following acts of misconduct are unacceptable for members of this Department, and a violation of any of these provisions will subject a member to corrective action.

A. Unbecoming Conduct

- 1. Members shall not engage in any willful action or conduct which impedes the Department's efforts to achieve its goals, values, or beliefs as stated in the mission statement and code of ethics, brings discredit on the Department, or impairs the operation or efficiency of the Department or any member.
- 2. Members shall treat supervisory members, subordinates, associates, and the public with respect.

I. Neglect of Duty

- 1. Members shall not fail to use ordinary or reasonable care in the performance of assigned and lawful duties and responsibilities. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence or discretion.
- 2. Members, while working, shall not neglect their job duties and responsibilities or fail to perform a lawful duty.
- 3. Supervisory members, while working, shall not neglect their responsibility to evaluate, train, mentor, counsel, support and discipline subordinates under their span of control.

O. Giving Falsified Information

Members shall not intentionally give false, inaccurate, incorrect or incomplete information to anyone in the performance of their duties, except in the furtherance of a legitimate duty.

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Violation of General Order 63: Officer Involved Action Resulting in Serious Injury or Death

Preface - When an officer intentionally discharges a firearm at a suspect or detainee, or the use of force or other action by an officer results in death or serious injury to any person, Department staff will conduct a thorough investigation, preserve the physical and emotional well being of the officer(s) directly involved, and make every effort to protect human life.

Involved Officer: The officer whose use of force or other action results in the death or serious injury to another person, and any officer who discharges his/her firearm at a suspect or detainee, regardless of injury or death.

On scene Supervisor: The ranking supervisor who takes charge of the incident scene prior to the arrival of the Violent Crimes Unit or Traffic Homicide Unit investigators.

Proffered Statement: For the purposes of this policy, a voluntary statement occurring contemporaneous to an officer involved action resulting in serious injury or death, provided by an attorney representing an involved officer. The statement itself cannot be used against the officer, but can be used to assist the investigation develop leads and find evidence.

VII. INVOLVED OFFICER ON SCENE STATEMENTS

A. Involved officers shall provide to the requesting on scene supervisor information needed to ensure the integrity and security of the incident scene, and the safety of individuals present. This information shall be limited to the following:

1. Type of force used
2. Location of any injured persons
3. Description of any at-large suspects and their direction of travel, time elapsed since they were last seen, and any suspect weapons
4. Description and location of any known victims or witnesses
5. Description and location of any known evidence
6. Other information as necessary to ensure officer and public safety and assist in the apprehension of any at-large suspects

Violation of General Order 60: Use of Force

Preface: Officers of the Tallahassee Police Department, in the course of performing their duties, will use only the amount of force necessary to overcome and control the actions of resistive suspects.

Deadly Force: Any force likely to cause great bodily harm or death.

Force: The amount of “active power, strength or energy” necessary to overcome a suspect’s physical resistance.

Great bodily harm: An injury likely to result in permanent disability, impairment, or significant disfigurement.

I. GENERAL GUIDELINES

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A. Each officer is trained in the use of a continuum of force (see section V), and shall only use that force necessary to accomplish lawful objectives, and any use of force shall be reasonable for the situation facing the officer.

B. This policy is a guide to selecting effective, reasonable and legal force options during verbal or physical encounters. As a suspect increases his/her resistance level, an officer may have to increase the level of his/her response until resistance ceases or the officer is able to gain control of the suspect. As soon as suspect compliance is gained, officers must de-escalate their force response to a level necessary to maintain control of the suspect.

E. The determination of whether or not an officer has used force that was reasonably necessary must be done on a case-by-case basis. Factors that may be used in such a determination include:

1. The officer's justifications for his/her actions prior to the use of force.
2. The officer's level of training and experience.
3. The officer's perceptions at the time of the incident.
4. The suspect's reaction to police presence or actions.
5. The type of incident being investigated by the officer.
6. The time of day, particularly if late at night.
7. The lighting conditions at the time of the incident.

IV. DEADLY FORCE

A. Officers may use deadly force only when they reasonably believe it is necessary to prevent great bodily harm to themselves or another person, or defend their life or the life of another person from an imminent threat.

B. When feasible, before discharging a firearm, officers shall identify themselves and the intent to shoot.

E. Warning shots are prohibited.

V. CONTINUUM OF FORCE

The following continuum of force provides officers with relevant information regarding a suspect's actions and an officer's response to those actions.

A. Levels of resistance by a suspect

Level 4. Active Physical Resistance: The suspect makes physically evasive movements to defeat the officer's attempt at control. This may be in the form of bracing or tensing, attempts to push or pull away, running away, or not allowing the officer to get closer to him/her. It also includes linked arms.

Level 5. Aggressive Physical Resistance: The suspect becomes assaultive, hostile, or makes attacking movements. This includes pushing, kicking, grabbing, and any other attacking actions reasonably perceived to be directed at the officer. This level of resistance causes the officer to feel these attacks may cause injury, but are not likely to cause death or great bodily harm to the officer or others.

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Level 6. Aggravated Physical Resistance: The suspect makes overt, hostile, attacking movements, with or without a weapon, with the apparent intent and ability to cause death or great bodily harm to the officer or others. This includes biting.

B. Levels of response by officers

Level 6. Deadly Force: This is best illustrated when the officer must shoot or strike the suspect in a manner that is likely to cause death or great bodily harm, in compliance with Chapter 776, Florida State Statutes. Strikes, with or without an impact weapon, delivered to the spine, throat, eyes, or groin are considered deadly force. The Enhanced Vascular Neck Restraint (EVNR) is considered deadly force.

- D. Officers may exercise a variety of force options during an encounter with a suspect. Officers may enter the use of force continuum at any level they believe reasonable and necessary to control the suspect. The officer may escalate or de-escalate via the use of force guidelines in an attempt to control the suspect for arrest.

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Findings:

1. On January 4, 2015, Sergeant Davis worked his assigned duty on uniformed patrol as a supervisor in the Southern Sector.
2. During Sergeant Davis' shift, an employee of Motel 6 (1027 Apalachee Parkway) contacted the TPD Duty Office with information on the whereabouts of Deondrea Hudson, a person wanted for a homicide. Officer Sarah Clayton was working in the Duty Office when the telephone call came in and forwarded the information she obtained to Sergeant Brian Davis.
3. Sergeant Davis contacted Investigator Trowbridge, a member of the Career Criminal Unit, regarding the information. Investigator Trowbridge was the lead investigator tasked with finding Mr. Hudson. Sergeant Davis and Investigator Trowbridge spoke on multiple occasions to discuss the quality of the information and how to proceed.
4. Sergeant Davis conducted surveillance on the motel room from an area of concealment. Sergeant Davis believed he witnessed Deondrea Hudson leave the motel room and get into the passenger seat of a black car, which left the motel. Sergeant Davis lost sight of the suspects' car.
5. Sergeant Davis located the suspects' car a short time later, at the intersection of East Lafayette Street and South Magnolia Drive as it entered the Marathon Gas Station (1011 South Magnolia Drive).
6. Sergeant Davis parked across South Magnolia Drive from the Marathon Gas Station at a closed Super-Lube (1255 East Lafayette Street), and monitored (the person believed to be) Mr. Hudson while he was at the gas station. Sergeant Davis requested additional officers to assist with the apprehension.
7. Before additional officers could arrive, (the person believed to be) Mr. Hudson and the driver left the gas station. Sergeant Davis followed the suspects' car west on East Lafayette Street. Officer Schwab arrived to assist Sergeant Davis, and they attempted a traffic stop on the suspects' car. The incident was recorded on Officer Schwab's MAVRICS.
8. The suspects' car refused to stop and fled. Sergeant Davis conducted a PIT (Precision Intervention Technique) which disabled the suspects' car. The occupants, two black males, fled on foot. Sergeant Davis discharged his firearm at (the person he believed to be) Mr. Hudson.
9. An extensive search was conducted to attempt to locate the two suspects. One suspect was located and arrested near Tally Square Apartments (1112 South Magnolia Drive). The suspect had the same description Sergeant Davis gave for (the person he believed to be) Mr. Hudson. The suspect was not Mr. Hudson, but rather Kenny Sharpe, a person with a warrant for an unrelated incident. Once in custody, Mr. Sharpe claimed to have been struck by a bullet fired by Sergeant

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Davis. The second suspect was not captured on the night of the incident. A medical doctor later determined the injury to Mr. Sharpe was likely a puncture wound, not a gunshot wound, but he could not conclusively rule out Mr. Sharpe was struck by a bullet fragment.

10. The TPD Criminal Investigation Division investigated the shooting. Investigator Isom was the lead investigator.
11. Investigator Isom's investigation raised various questions: Was Sergeant Davis instructed to stand down by Investigator Trowbridge while attempting to locate Mr. Hudson at the Motel 6? Was Mr. Sharpe armed with a firearm? Did Sergeant Davis tell anyone Mr. Sharpe possessed a firearm, or pointed it at officers, on the night of the incident? Where was Mr. Sharpe located when he allegedly pointed a firearm at Officer Schwab and Sergeant Davis? Would Sergeant Davis have been able to see a handgun in Mr. Sharpe's hand as he claimed in his interview?
12. A Grand Jury convened on February 26 and 27, 2015, regarding this incident. The Grand Jury came to the decision of a No True Bill Presentment but there were concerns raised. A portion of the Presentment read as follows: "Sergeant Davis maintains that Sharpe was armed and aiming a firearm in the direction of another officer. If true, this is clearly a lawful basis to fire at Sharpe regardless of whether he is the murder suspect or not. But we find the evidence that Sharpe had a gun insufficient for the following reasons. First, no gun was found on Sharpe or along the path where he fled. Next, Sergeant Davis did not mention that Sharpe had a gun until his interview 72 hours later. And lastly, there is a conflict in Sergeant Davis' testimony about where Sharpe was standing when Davis first observed that Sharpe was armed. Hence, we cannot find that this shooting was justified on that basis."
13. The Grand Jury came to the determination the shooting was justified on the grounds that an officer may use deadly force against a fleeing felon who is reasonably believed to have committed a crime involving the infliction of or threatened infliction of serious physical harm to another person. The Grand Jury's determination was based on the evaluation of the reasonableness of Sergeant Davis' belief Mr. Sharpe was Mr. Hudson, Sergeant Davis' experience as a police officer, and Sergeant Davis' belief the murder suspect was extremely violent and presented an imminent danger to others. The Grand Jury explained Sergeant Davis' identification of Mr. Sharpe was not based on his facial features (which were partially obstructed) alone, but by Sergeant Davis' observations of Mr. Sharpe's general appearance, demeanor, and suspicious actions. Mr. Sharpe's actions after he left the motel and refusal to surrender added to Sergeant Davis' suspicion.
14. On March 16, 2015, an Internal Investigation was ordered due to the concerns raised during Investigator Isom's investigation and by the Grand Jury. Numerous exhibits were reviewed and multiple interviews were conducted by the Internal Affairs Unit.

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15. Investigator Trowbridge was interviewed. He explained how the conversations occurred with Sergeant Davis on the night of the incident. The last time Investigator Trowbridge and Sergeant Davis spoke on the night of the incident, Investigator Trowbridge believed Sergeant Davis understood he was not to attempt to locate Mr. Hudson at the Motel 6. Investigator Trowbridge believed Sergeant Davis understood him because Sergeant Davis asked him if it would be okay to go to the lobby of the motel. In addition, Sergeant Davis sent Investigator Trowbridge a picture of the motel's floor plan and a text which read, "Pic of map of hotel attached, rm 228 northern end of structure, door faces west, happy hunting, any changes i'll advise." Investigator Trowbridge was preparing to go on duty to attempt to locate Mr. Hudson when he heard the incident taking place on the radio. After the night of the incident, Sergeant Davis came to the CCU office to explain how the incident began. Sergeant Davis explained how he was across the hotel and saw Mr. Sharpe, who he believed was Mr. Hudson. Investigator Trowbridge said from there "whatever happened-happened" and the conversation did not go further, because he was only listening to find out how Sergeant Davis' contact with Mr. Sharpe began. Investigator Trowbridge did not recall Sergeant Davis or anyone else saying Mr. Sharpe was armed with a firearm.
16. Sergeant Davis was interviewed. Sergeant Davis confirmed he received the tip regarding the whereabouts of Mr. Hudson. In regard to the conversations with Investigator Trowbridge, Sergeant Davis said he was authorized to conduct surveillance and take action away from the Motel 6, should Mr. Hudson leave.
17. When Sergeant Davis asked Investigator Trowbridge about going into the Motel 6 office (lobby), Sergeant Davis stated he was not asking for permission. Sergeant Davis was "conferring with a colleague who was gonna be working on that scene at the same time." When asked if he ever dismissed or ignored Investigator Trowbridge's instruction, Sergeant Davis answered, "There was never a message to stand down."
18. When asked why he went to speak to Lieutenant Abbey and members of the CCU, Sergeant Davis stated he wanted to be cooperative. Sergeant Davis heard some of the members were angry with him, and he wanted the members to know the full story of how things happened.
19. Sergeant Davis stated he observed Mr. Sharpe (thought to be Mr. Hudson) for approximately 45 seconds at the Motel 6, but said there were, "several observation times." Sergeant said Mr. Sharp was wearing a hooded sweatshirt with the hood over his head, appeared to be nervous, talking on a cellular phone, looking in the parking lot, and was attempting to conceal his identity. Sergeant Davis stated, "The face appeared to be the same from what I could see, the body height, weight was about the same, the, um, from what I could see it appeared to be him from what I was looking at and what I was looking at on the computer." Sergeant Davis was using binoculars "specifically designed to allow for extra light and clarity at night ... utilizing ... [them] ... I could clearly see ... the front door of the hotel, and the facial features of the person I was looking at."

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20. According to 943.053(2)

Mr. Sharpe's dreadlocks were styled to conspicuously stand up on his head on the night of the incident. According to 943.053(2)

Mr. Hudson had the facial tattoos in Intelligence Bulletin 14-125 [Exhibit 22].

21. The tip regarding Mr. Hudson stated he was seen at Motel 6 at approximately 2:00 pm. Sergeant Davis arrived at the motel around 7:00 pm (5 hours later) and within 45 seconds determined the person exiting the motel room was Mr. Hudson, when it was really Mr. Sharpe.

22. Sergeant Davis said even though (he believed) he had a positive suspect identification, he did not have time request backup officers to arrest Mr. Sharpe. Sergeant Davis said, "While he was looking out through the window and as he comes out of the room, he was going from one end of the balcony, the stairwell - room 228's on the left end, the stairwell's in the middle of the building structure. He's walking back and forth between those two places on the phone. It is during that time in which I'm able to observe him and see more features as he turns, as he changes his position with him, I'm able to look at his height and build more closely, and I make the determination I believe this to be him from the information in the computer in front of me and from what I'm seeing. At that same time approximately, a black vehicle comes up, he runs down the stairwell and gets into that black vehicle. I didn't have the opportunity prior to that to make any phone calls."

23. When Investigator Isom questioned Sergeant Davis about how the black vehicle (suspects' car) picked up Mr. Sharpe. Sergeant Davis then provided a more detailed description. "The sedan came more head on, so that yes- as the sedan would come through the parking lot the driver's door would be to the building. He turned into the open area the uh, available to him in the parking lot, to point into the stairwell area so the front grill was pointed towards the building. The gentleman who I believed to be [Mr.] Hudson came out the stairwell, into the parking lot and entered the passenger side of that vehicle." The Motel 6 surveillance footage showed the suspects' vehicle did not turn in toward the building for Mr. Sharpe to get inside it. The footage showed the suspects' vehicle drive past the area of room 228 and go to the pool area behind the building to turn around. In camera 15's recording, the suspect vehicle can be seen rounding the southern corner headed toward the pool area. In camera 16's recording, the vehicle can be seen turning around. The vehicle was on the opposite side of the building from Sergeant Davis and would have been completely out of sight. When the suspects' vehicle returned to pick up Mr. Sharpe (in camera 28's view), Mr. Sharpe walked out to meet the vehicle in the driveway so it had no reason to turn into the building.

24. During Sergeant Davis' CID interview, he went into detail on how the black car picked up Mr. Sharpe. Sergeant Davis stated the black car entered the parking lot and "pulled up to the stairwell, uh the phone came off his ear and he made a 'beat-feet' for the stairwell down to the parking lot and I could see him get into the

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sedan. The sedan went out of the front of the parking lot and toward the service road or on to the [Apalachee] Parkway.” When questioned further by Investigator Isom on the events in the parking lot, Sergeant Davis explained more. “The sedan comes, he makes his final turn to the stairwell and makes a- quicker speed [sic] to the stairwell and getting into that sedan. So, part of my interpretation of that as well was, that he was waiting on this guy to pick him up; he did not want to be seen; he thought he was on time for the car to come out, he wasn’t. [He] got nervous, was going back and forth getting ready to go back into the room, did not go back into the room, [the] sedan pulls up, [he] gets on the phone, communication [and then he] comes back to the stairwell and enters the sedan.... [The] sedan came more head on so that, yes, as the sedan would come through the parking lot the driver’s door would be to the building. He turned into the open area of the- available to him in the parking lot to point into the stairwell area so the front grill was pointed towards the building. The gentleman who I believed to be [Mr.] Hudson came out the stairwells [sic] into the parking lot and entered the passenger side of the vehicle.... [The car] backs out and leaves quicker than it came in....”

Sergeant Davis indicated the manner in which Mr. Sharpe was picked up by the vehicle was suspicious and contributed to his belief this person was Mr. Hudson. The video footage from Motel 6 clearly shows Mr. Sharpe was not picked up in the manner described by Sergeant Davis and does not depict suspicious activity to enhance his belief Mr. Sharpe was actually Mr. Hudson.

25. Sergeant Davis stated the night of the incident was “not particularly cool” and “there was no reason for him to have the hoodie on, as excessively cool temperatures, rain, or anything of that nature. Having the hoodie on was one of the indicators to me of suspiciousness and that he was attempting to, uh, hide his identity.” Exhibit 17 consists of weather reporting information for January 4, 2015, (night of the incident) and January 13, 2015 (night of the reenactment) from the National Oceanic & Atmospheric Administration, which stated January 4, 2015’s, high was 73 degrees and low was 51 degrees with 1.62 inches of rain. In addition, the National Weather Service issued a Tornado Watch that day which expired at 6:00 pm. This incident occurred at approximately 7:26 pm. A person wearing a light-weight jacket in these weather conditions should not have been particularly unusual.
26. Sergeant Davis was asked if he had a plan (an arrest team) in place with personnel to assist for arresting Mr. Hudson if he encountered him while doing surveillance. Sergeant Davis stated he did not have a plan “for that regard.”
27. The suspects’ vehicle left the parking lot of the Motel 6 before Sergeant Davis could follow it.
28. While Sergeant Davis believed a murder suspect had just entered a vehicle and left the motel, there is no record of Sergeant Davis contacting the CDA by phone or radio at all. In addition, Sergeant Davis lost sight of the vehicle he believed a murder suspect was riding in and made no effort to inform anyone.

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29. Sergeant Davis drove to the intersection of East Lafayette Street and South Magnolia Drive and located the vehicle. The vehicle entered the Marathon Gas Station parking lot, and Sergeant Davis parked across South Magnolia Drive at the Super-Lube to watch Mr. Sharpe.
30. Sergeant Davis stated the Marathon Gas Station was newly refurbished and the lighting was better there than at the Motel 6. Sergeant Davis described Mr. Sharpe's behavior inside the gas station by stating, "He - if a subject - if you normally walk into a convenience store, this is - assuming a reasonable person, you are there to get something. You're casual. You may be - if you have a cop eye, you're looking behind the cash register to make sure that nobody's being robbed or in the cooler, but you're casual, you're looking for something. You get your something, you go to the cash register, or you might mill around. This person was very cautious as to where he was walking. He kept the hoodie up, if not tugged a little every now and then as it would come back behind him. He was very, very interested in anybody who walked by the front windows, anybody who came into the store. He was very intense in regard to knowing his surroundings. That activity also increased my belief this was Deondrea Hudson."
31. The Marathon Gas Station security camera footage contradicted Sergeant Davis' statement. The footage showed Mr. Sharpe and a second subject (later identified as Mr. Sharpe's half-brother Deon Fields) from the point they arrived. Mr. Sharpe was still wearing his hooded sweatshirt with its hood up and Mr. Fields was wearing a coat and a ski cap. Mr. Sharpe was holding his cellular phone when he entered the gas station and began talking on it. Mr. Sharpe could be seen on the footage "milling" around in the store while talking on his cellular phone. Mr. Sharpe casually shopped for food and drinks inside the store. While standing at the cold drink cooler, Mr. Sharpe paused with arms crossed to talk on his cellular phone while making a selection. It should be noted Mr. Sharpe did touch his hood while in front of the cold drink cooler, but it appeared as though he scratched his head. The footage did not support Sergeant Davis' claim and showed Mr. Sharpe shopping in a casual manner inside the store. There was no indication on the video footage Mr. Sharpe was cautious or intensely aware of his surroundings.
32. Besides Mr. Sharpe's and Mr. Fields' behavior, the footage showed other items of interest. The footage frame meant for the cold drink cooler showed a portion of the front window to the gas station. The front window had hanging advertisements and other displays which would partially obstruct the view inside the gas station. The aisle where Mr. Sharpe selected what appeared to be a candy bar would, more than likely, not have visible from outside the gas station. The candy bar aisle was located a few aisles into the store with multiple display racks filled with items between the front window and Mr. Sharpe. It would have been improbable for Sergeant Davis to maintain a consistent view, if any, of Mr. Sharpe through grocery aisles, filled racks, hanging advertisements, two rows of gas-aisles and pumps, a parking lot, and three lanes of traffic.

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33. Sergeant Davis estimated Mr. Sharpe was at the gas station for 45 seconds. The security camera footage showed they were at the store for approximately 5 minutes.
34. Sergeant Davis was asked if Mr. Sharpe made any gestures or movements which would lead him to believe Mr. Sharpe had a concealed weapon. Sergeant Davis answered, "He was very aware of his waistband and pockets and whatnot. There was nothing that I specifically saw to make me believe at that time that he had a firearm on him." The Marathon Gas Station security camera footage only showed Mr. Sharpe reach into his pocket while standing near the register when he first entered the store, and again when he paid the clerk for the items he selected. The video footage does not support the assertion Mr. Sharpe was 'very aware of his waistband and pockets.'
35. Sergeant Davis' CID interview described Mr. Sharpe's behavior as continuing to be suspicious outside the gas station. Sergeant Davis stated Mr. Sharpe "kept looking outside the windows," was "more attuned to his environment than a reasonable person or even somebody that was curiosity [sic] as to what was going on, very attune. Exit the store, started walk [sic] to the car, went to the driver's door and then he left- excuse me passenger door, car was facing south in the parking lot. He left the passenger door and started to walking south through the parking lot. And I'm thinking okay, he's-he's seen me, he's getting ready to run. And it's-it's kind of like he stopped suddenly like he was yelled at. It's my perception of what I saw from his reaction. Turned back to the car ... walked back to the car." Sergeant Davis estimated Mr. Sharpe walked "about halfway- three quarters of the way down" through the parking lot.
36. During the Internal Affairs Unit Interview, Sergeant Davis was asked about Mr. Sharpe's behavior outside the gas station. Sergeant Davis stated, "Uh, his actions again. The vehicle had parked basically in front of the storefront. They had pulled in from the north and was facing south, which would put the passenger door to my side, the east side of the, uh, door. I am a little up on a hill. I'm in a little darker area. Uh, if somebody's not paying very close attention, you wouldn't, I wouldn't think, notice a police car back there. Uh, when he exited though, he became even- if he could, become even more nervous. Um, the driver was speaking to him and motioning to get in the car, and he was actually walking away from the car, uh, southern bound to, uh, Lafayette [Street] - no, to Magnolia [Drive], um, in which I had put on the radio at that time, "I think he's fixin' to run." Um, he didn't. He turned around though and went back into the car. Um, those actions led me to believe that he had seen the police vehicle. He was worried about the actions and being captured, and was thinking about running. For whatever reason, he went back to the car. But those actions again reaffirmed, with the other activities and the visual observation I had, I believed this to be Deondrea Hudson."
37. The Marathon Gas Station security camera footage and Sergeant Davis' own radio transmissions contradict his statements.

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38. The footage showed Mr. Sharpe pay for his items, then use the change owed to him to purchase additional items (which appeared to be loose candies), before walking out the front door toward the car. By that time, Mr. Fields was waiting in the driver's seat of the car. Mr. Sharpe can be seen holding a plastic bag in one hand and using his shoulder to brace the cellular phone, while walking directly to the car. Mr. Sharpe rounded the front of the car and got into the passenger seat. The video did not show Mr. Sharpe walk away from the car and walk south through the parking lot, or show Mr. Fields get out of the car and motion or yell for Mr. Sharpe to return to the car. The car drove out of the parking lot and north on South Magnolia Drive. [Exhibit 30]
39. During Sergeant Davis' Internal Affairs Unit Interview, he had concerns as to whether all of the video frames were present in the Marathon Gas Station security footage. The footage clearly showed Mr. Sharpe going from the cash register on camera 2, to the exit door on camera 3, to their vehicle on camera 5. There are no missing frames or angles.
40. The radio recording did not substantiate Sergeant Davis' claim to have said, "I think he's fixin' to run." The radio recording revealed Sergeant Davis stated the following, "Alright, now he's in the checkout line. ... I think he's coming out now. He's gonna get in- I'm going to have to let him get into the car because there are a ton of civilians there. ... Alright, he's outside but I've lost sight of him; he's in between the gas pumps. I can't see where he's at. It appears the brake lights on the black car is [sic] coming on. Uh, black car is a four-door sedan, total black out with uh, low profile tires is all I can tell you right now. ... The car is pulling out, standby. [The] car's positioning itself to Magnolia [Drive]. [The] car's facing Magnolia [Drive]; I'll let you know if it goes north or south in a moment." [Exhibit 8] These radio transmissions corroborate Mr. Sharpe's actions as seen on the video footage. Sergeant Davis stated he lost sight of Mr. Sharpe between the gas pumps, the brake lights on the vehicle came on and then the car was pulling out. This contradicts his own statement that Mr. Sharpe walked $\frac{3}{4}$ of the way through the parking lot.
41. Sergeant Davis was asked about the conflict between his statement about Mr. Sharpe's actions outside the Marathon Gas Station and what the security camera showed. The security camera footage contradicted Sergeant Davis' statement. Sergeant Davis stated there must have been a section of the footage missing or not covered by the camera system.

When questioned about the video, Sergeant Davis stated he did not watch the video footage prior to his interview. Sergeant Davis stated, "I'm not saying - no, I'm not saying edited by any means. I'm not saying there's any conspiracy or anything else here. What I've vocalized to you in my descriptions is my recollection of what occurred. What I heard from you is the video shows something dramatically different. With that being said, I can't see it. I still believe today that what I vocalized to you is what I saw, it's what happened. Should there be something, a camera position missing or something of that nature, it's the only thing - I - I don't know why, but you watch it, I haven't. I don't know if you were

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able to tell if all camera frames are there or not, but I - I - I'm not discrediting what you say, but I stand by what I just said."

42. The testimony Sergeant Davis provided during his CID interview and his Internal Affairs Interview to support his positive identification of the subject as Deondrea Hudson has been proven to be untruthful based on video surveillance and his own radio transmissions.
43. As the vehicle left, it traveled west on East Lafayette Street. Officer Schwab joined Sergeant Davis behind the suspects' vehicle. Sergeant Davis attempted to do a traffic stop, but the vehicle fled. During the pursuit, Lieutenant Outlaw authorized the pursuit to continue and the use of a PIT maneuver. Sergeant Davis conducted the PIT at the intersection of Santa Rosa Drive and Seminole Drive. The two passengers fled on foot, and Sergeant Davis discharged his firearm at Mr. Sharpe.
44. In Sergeant Davis' CID interview, he described the scene and the firearm with great detail. Sergeant Davis stated, "I could see the gentlemen who I believed to be Hudson running to the west- or excuse me east and as he got to the area of the rear of the house, the back wall of the house ... there's a fig tree that's back there you should have located a sock back there, it's about 40 yards I think from my front bumper. The gentleman had stop or was stopping, [he] began to turn to his left from the east, to the north, to the west, was raising his right arm and I could clearly see a semi-automatic pistol in that hand. [He] raised it to the ground level in a position where it was appeared [sic] to be pointing toward Officer Schwab and had taken a stance to fire. It is at that time I had started to yell, 'Police stop,' but I didn't have time to finish- complete that. With the sirens on, nobody could have even heard it. He did see- or got to my attention he had realized where I was somehow or notice my movement, whatever it may have been. And the arm continued to come around towards me. I quickly fired I believed to be three shots, the round count- I believe to be three, three shots. The round count shows up, if I'm not mistaken, to be four. I was very worried about my background, the neighborhood we're in, I was very worried about him firing upon officers, they distinctly went in two separate directions so at the same token I'm thinking this might have been a set up at the same time. Run very quickly out and the guy knew- was going to ambush whoever runs after the other gentleman. The weapon came to me, it went- had already passed Schwab when I was firing. The gentleman very quickly turned to his left, so he continued the circle around ... he was pushing back with his legs. Okay, the 'Oh shit factor,' being shot at you're going to react very quickly. [He] pushes back continues his movement around and runs very quickly behind the house. As he's turning and as that gun is away from me and he's- he's very quick gentleman as you can see in the videos. As he made that movement, I stopped firing. I had no reason to be firing at that point."

Sergeant Davis went on to say the firearm was a dark semi-automatic handgun. In addition, Sergeant Davis said the orange sock was a marker for the area where Mr. Sharpe stood when he pointed the firearm. [Exhibit 14]

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45. In Sergeant Davis' Internal Affairs Unit interview, his statement regarding Mr. Sharpe displaying a firearm and the firearm as the reason for the shooting remained consistent. Sergeant Davis described the firearm as a dark colored, semi-automatic, medium frame for the size of Mr. Sharpe's hands, handgun.
46. Sergeant Davis was asked if there was any supplemental lighting in the area when he fired at Mr. Sharpe. Sergeant Davis said, "[T]here's [sic] two house lights, to the house to the left, two outside lights. The house on the right had its porch light on. I have my high beams on. I have my light bar in pursuit mode, which automatically activates the takedown lights. There were, if I counted correctly, three streetlights in the immediate area that were also illuminating down that range. Other than that lighting, uh, assuming I'm not forgetting something, that is the lighting utilized." Sergeant Davis later stated Officer Martinez's headlights provided additional light whenever he approached the scene. Officer Martinez's MAVRICS showed when he arrived the shooting already had occurred and Sergeant Davis was not standing in his SUV's doorway. It is unlikely his headlights could have provided any illumination.
47. The re-enactment video and statements from Investigator Isom, Sergeant Boccio, FSS Yao, FS Wilder, and civilian witnesses all indicate the area was dark and would not be conducive to seeing a handgun, especially in the detail described by Sergeant Davis. FSS Yao specifically stated, "While standing there with the flashing blue lights on, that was [were] on ... top of his SUV, I couldn't see anybody in the position that ... they indicated the individual shot at [sic]. Investigator Isom walked down to where the position was and from my position standing there with the flashing light next to my eyes, I lost sight of him about two-thirds of the way down there." FSS Yao went on to say, "If I held up my hand and blocked out all the ... blue lights completely to where the blue lights were not right in my eyes, at my position I was able to see Investigator Isom down range to that approximate location, um. I couldn't see his hands, but I could see his person that was standing there."
48. Near the end of the Sergeant Davis' CID interview, Investigator Isom asked Sergeant Davis for more information related to the events after he discharged his firearm. Sergeant Davis told Investigator Isom he believed Mr. Sharpe still had the firearm after their confrontation. Investigator Isom then asked Sergeant Davis, "Once he [Mr. Sharpe] was out of sight behind the house, did you alert anybody by radio or otherwise that you had fired upon the guy and that he was armed, still armed or anything like that?" Sergeant Davis responded, "There are multiple indications of shots being fired, shots being fired, shots being fired. And, in review of the tape, I do not hear myself saying that, that, I, I, hear [unintelligible] shots being fired. I don't recall that specifically was [sic] given out, the weapon. I do know from indication of talking to Schwab at the scene it was all very, very much implied, if not specifically stated. I sadly don't recall specifically saying that. And, I would have to defer to the tapes that night."

Investigator Isom asked Sergeant Davis, "So, you do not recall making the statements on the radio or otherwise except in conversation with Schwab, or not

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even..." Sergeant Davis responded, "It was, it was implied. I mean ... if I fired that there was a weapon and that was implied to me mentally- otherwise. And ... I'd have to defer to the tapes if it was said by me or not [sic]. I don't believe it was. It was ... I hope that I answered your question." Investigator Isom asked Sergeant Davis, "Did you ever specifically state to anyone before today that the suspect was armed with a handgun? ... [Anyone] other than Steve [Webster]?" Sergeant Davis answered, "Once Lt Outlaw got on scene, I gave him- this is my second with him- a, a very quick of what was said and done. And, I do believe saying- the exact words I used to him- I do not recall- it was that I was threatened and that I fired. And, those- the minimum, the least that was said, and the implication being that in and of itself, um, additional conversations occurred and I provided information, that was looking for rounds towards me, um. I answered those questions, um. If we should be looking for any other incidents- incidents um, no, I specifically can look back- can we look in the backdrop for my rounds, um. Once I found out that it was Mr. Sharpe we had, versus [Mr.]Hudson, Lieutenant Abbey was already on scene and I had asked if he was briefed by [Investigator] Trowbridge, I received a[n] answer of yes. I suggested highly that we go back to 2-2-8 in that regard, make sure we surround that, um. Everything that I said or did that night I don't recall specifically it was a lot, and I- would have to defer to the assistance of other people's recoll- recollection and tapes."

Investigator Isom asked Sergeant Davis if he told Lieutenant Outlaw there was a threat. Sergeant Davis answered, "That was the recollection of what was said to me." [Exhibit 14]

49. During his Internal Affairs Unit interview, Sergeant Davis was asked why he did not tell any officers that Mr. Sharpe was armed with a firearm. Sergeant Davis stated, "It was given to Lieutenant Outlaw, it was given to Officer Clayton and Officer Schwab." None of these officers heard Sergeant Davis tell this to them. Officer Schwab specifically stated Sergeant Davis did not tell him the suspect had a firearm. Lt. Outlaw specifically denied Sergeant Davis telling him the suspect had a firearm and said Sergeant Davis told him he "perceived a threat." Officer Ouzts, who was assigned to accompany Sergeant Davis, recalls overhearing him tell someone he "perceived the threat."
50. Officer Schwab was interviewed by CID. He responded to assist Sergeant Davis in the attempt to arrest Mr. Sharpe. Officer Schwab joined Sergeant Davis as he was driving west on East Lafayette Street behind the suspects' vehicle. Officer Schwab got behind Sergeant Davis' vehicle as the pursuit began. When Sergeant Davis used the PIT on the suspects' vehicle, Officer Schwab did not see Mr. Sharpe exit the vehicle. Officer Schwab observed the driver (Deon Fields) as he fled the vehicle. Officer Schwab began to run after Mr. Fields when he heard gunshots from Sergeant Davis. Officer Schwab stopped and asked Sergeant Davis what he fired at and did not recall Sergeant Davis saying the suspect had a firearm. Sergeant Davis pointed in the direction where Mr. Sharpe ran. Sergeant Davis never gave Officer Schwab a reason why he fired. Officer Schwab checked the area where Sergeant Davis shot but did not see the suspect. Officer Schwab

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waited for Officer Clayton (with his K-9) to arrive and attempted to track Mr. Sharpe. Officer Schwab did not recall if Sergeant Davis stated on the radio Mr. Sharpe had a firearm. During the officer-involved shooting round-count, Sergeant Davis never mentioned a suspect was armed with a firearm.

51. Sergeant Davis' claim he told Lieutenant Outlaw, Officer R. Clayton and Officer Schwab contradicted his CID interview.
52. During his Internal Affairs Unit interview, Sergeant Davis was asked when he told Officer Schwab about the firearm. Sergeant Davis said he told Officer Schwab immediately after he fired at Mr. Sharpe. During his CID interview Officer Schwab denied being told the suspect had a firearm by Sergeant Davis. During his Internal Affairs Unit interview, Officer Schwab still did not recall Sergeant Davis telling him the suspect had a firearm.

Officer Martinez's MAVRICS recorded his interactions at the scene of the shooting [Exhibit 14] until he went out of range for his microphone's connection. From 4:58 (video time) until to nearly 9:00 (video time) the patrol vehicles' sirens were off and the three officers were at the scene. The recording does not capture Sergeant Davis ever telling Officers Martinez or Schwab the suspect was armed, had a firearm, or pointed a firearm toward Officer Schwab. At approximately 9:25 (video time) Officers Martinez and Schwab sound as though they were leaving to locate the suspects and yelled to Sergeant Davis to "secure" their patrol cars. At approximately 10:08 (video time) Officer Martinez asked "Hey Schwab did he [suspect] look zero [armed] when he comes [came] out?" Officer Schwab replied, "I didn't see anything. Sarge PIT'ed him, it was a big cloud and I didn't see anything after that. I just started going after the passenger." Officer Martinez's microphone began to lose its connection and eventually disconnected. Officer Schwab never stated to Officer Martinez that Sergeant Davis told him anything about the suspect being armed with a firearm.

53. Sergeant Davis was asked if Officer Schwab acknowledged him when he told Officer Schwab the suspect was armed with a firearm. Sergeant Davis answered, "He didn't do anything to make me believe he did not understand the information."
54. Sergeant Davis was asked when he told Officer R. Clayton the suspect was armed with a firearm. Sergeant Davis said, "As I recall it, when he first got out of the car, he asked me, 'Did he - was he armed?' I stated specifically, 'Yes.'" At the same time, there was a lady yelling and screaming she had just saw the person run down Maple [Drive], and I was getting with that person to get additional direction of travel to provide to [Officer] Robbie [Clayton]." Officer R. Clayton stated in his Internal Affairs Unit interview, he remembered Sergeant Davis saying something to him whenever he first arrived and got out of his patrol vehicle. Officer R. Clayton believed Sergeant Davis was telling him which direction the suspects went but could not tell for certain. Officer R. Clayton stated he was 40 to 50 feet away from Sergeant Davis at this time, and Sergeant Davis was talking with a citizen and transmitting on the radio. If Sergeant Davis yelled this information to Officer R.

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Clayton so it could be heard over this distance, it is likely Officers Martinez and Schwab would have heard this information and their MAVRICS microphones could have captured it. Officer R. Clayton did not recall if Sergeant Davis told him a suspect was armed. Officer Schwab's MAVRICS recorded his interaction with Officer R. Clayton whenever he arrived on scene. Officer R. Clayton's patrol car's siren was turned off and Officer Schwab said, "Alright, Sarge shot at this guy who ... ran down Maple [Drive] he's the driver. We also had another suspect start running northeast. Yeah we need two [K-9's]." The next interaction between Officers R. Clayton and Schwab was a discussion about what streets were around them.

55. Sergeant Davis was asked if Officer R. Clayton acknowledged the information he gave. Sergeant Davis answered, "It was a nod as I recall, and no additional, 'What did you say? I didn't understand.' It was my interpretation he understood what I told him."

It should be noted Officer R. Clayton was asked in his Internal Affairs interview if the information a suspect was armed was important. Officer R. Clayton agreed by saying, "Oh yeah, it always is ... and usually what they're armed with whether rifle versus pistol all that stuff; it's always beneficial." Sergeant Davis never mentioned whether he told Officer R. Clayton what kind of firearm the suspect had.

56. In his CID interview, Sergeant Davis never told Investigator Isom he said anything to Officer R. Clayton about the firearm. After Sergeant Davis was able to review the testimony of the officer's IA interviews, he then advised in his IA interview he told Officer Clayton.
57. Sergeant Davis was asked when he told Lieutenant Outlaw. Sergeant Davis answered, "There were several phone calls with Lieutenant Outlaw. It was either during one of those phone calls or while he was on scene. Um, there were several conversations with Lieutenant Outlaw, as you can see through the videotape. Additionally, through the interviews, the interview you have specifically with Lieutenant Abbey. Lieutenant Abbey is very affirmative when Lieutenant Outlaw told him the subject was armed, the only way Lieutenant Outlaw could have gotten that information was from me."

A review of Sergeant Davis' work cellular phone record confirmed his statement there were several phone calls to Lieutenant Outlaw. Although, the cellular phone record showed the phone calls were .05 minutes (or 3 seconds) long.

58. When Lieutenant Abbey was further questioned about who told him the suspect had a firearm, he was not certain. Lieutenant Abbey strongly believed someone told him because when he went to Lafayette Street to assist with locating a suspect he utilized his ballistic vest, rifle, and other gear. Lieutenant Abbey used the gear because he was concerned the suspect was armed. It should be noted Lieutenant Abbey had not met with Lieutenant Outlaw prior to going to Lafayette Street, and it was Sergeant Boccio who contacted him about the shooting.

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59. Sergeant Davis was questioned further when he told Lieutenant Outlaw about the firearm. Sergeant Davis responded, "There were several conversations with [Lieutenant] Outlaw. Lieutenant Outlaw and I have worked together for a very long time. And I'm sure at one point with our conversations - let me get my thoughts together, make sure I get this correct, the way that we need to do this. At what point in time specifically did I tell him there was a firearm? I can't - I can't recall if it was on the phone or in person, I do not recall. I know there were multiple conversations in which I offered and briefed him what had occurred. There was an opportunity in which he also asked me questions, all of which I answered fully. It was during one of those conversations and more likely than not, be one of the very initial - the initial conversation in which that information was relayed."

Lieutenant Outlaw stated he was never told the suspect had a firearm. In Sergeant Davis' CID interview he stated, "And, I do believe saying- the exact words I used to him- I do not recall- it was that I was threatened and that I fired."

60. Sergeant Davis was asked if Lieutenant Outlaw acknowledged the information he gave. Sergeant Davis answered, "The specific form of acknowledgment I don't specifically recall."
61. Sergeant Davis was asked if he ever told Lieutenant Outlaw the suspect pointed a firearm at him or that he perceived a threat and fired upon the suspect. Sergeant Davis answered, "It is my recollection I did tell Lieutenant Outlaw there was a firearm ... That recollection was reaffirmed for me in the interview that you had with Lieutenant Abbey."
62. Sergeant Davis was asked why on MAVRICS he could be seen walking to the rear of his SUV while Officer Schwab ran in the direction Mr. Sharpe went after Sergeant Davis fired. Sergeant Davis responded, "I disagree the way that's stated. Officer Schwab had a conver- I had a conversation with Officer Schwab at that point, in which he didn't even know about the passenger. He was informed of the passenger. He was informed what occurred, that I had shot, and he was informed of the firearm. I turned - nobody had cleared the vehicle as I recall at that time. I turned to clear the vehicle. I see Schwab going a little further down. That's when I go further out to ensure we're not being flanked or the subject's coming back around, and Officer Schwab is called back."
63. On Officer Schwab's MAVRICS at recorded time 6:24, Officer Schwab can be seen utilizing his pistol mounted flashlight to quickly clear the suspects' car. Officer Schwab was headed to the area where Mr. Sharpe ran.
64. Officer Martinez's MAVRICS video showed Sergeant Davis as he rounded the rear of his SUV and went south to ensure the officers were not going to be flanked. The video (at minute 4:24) showed what appeared to be Sergeant Davis holstering his handgun as he passed the SUV and walked south out of view of the camera. Sergeant Davis returned in range of the video at minute 8:35 (minute 12:03 for Officer Schwab's video). Sergeant Davis' handgun was not in his hand, but rather

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in its holster. At that point in time, the suspects were still at large and the possibility of being flanked was still real. Sergeant Davis' action of holstering his handgun is not consistent with believing an armed subject, who just pointed a firearm at officers in a potential ambush situation, may flank on-scene police officers.

65. Sergeant Davis was asked if he believed, "perceived a threat" was the same thing as the "subject pointed a firearm at Officer Schwab." Sergeant Davis answered, "No, the language is different - the definitions are different." Sergeant Davis said he did not tell Lieutenant Outlaw he perceived a threat and fired contrary to what he stated in his CID interview.
66. Sergeant Davis was asked if he told anyone to check whether the suspect had a firearm or discarded it along the track. Sergeant Davis answered, "No, sir, that'd be a natural act." Sergeant Davis went on to say, "And the same token at that time, I'm relieved from the scene. Lieutenant Outlaw's in charge. By the same token I believe Lieutenant - or Sergeant Boccio was on the scene, and by policy he's supposed to become the incident commander."
67. Ms. Keels, a citizen who lives at 1427 Seminole Drive, was interviewed. She was outside her residence when she heard the sirens and gunshots. Ms. Keels observed a suspect run down Maple Drive (likely Mr. Sharpe). She did not see a firearm in the suspect's hand when she saw him running.
68. Ms. Jovita Woodrich, a citizen who lives at 1304 Alban Avenue, was interviewed. Ms. Woodrich stated a suspicious person came to her door approximately 30 minutes to an hour before the officers were in the area. The subject was a sweaty black male in his twenties, wearing jeans but no shirt. Ms. Woodrich did not open her door, but said she saw him through a window next to the door. The male claimed to be selling some candy or magazines. Ms. Woodrich told the male to leave her property. The male left, and she last saw him walking south on Alban Avenue about a block away. Ms. Woodrich did not call the police but approached the officers she later saw. Ms. Woodrich stated a female officer showed her several pictures and asked if the pictures were of the person she saw at her door. Ms. Woodrich said she picked out a picture and by watching the female officer interact with a male officer, she determined the picture was of the person at her door. Officer Amison wrote a supplemental report which documented her contact with Ms. Woodrich, but the report did not mention a photographic line-up. It should be noted the photographic line-up was never mentioned by anyone else either. Ms. Woodrich never saw the subject at her door with a weapon.
69. Officer Marcus Johnson was interviewed. He responded to the area to assist with the attempt to locate the suspects. Officer Johnson was inside Tally Square Apartments (1112 South Magnolia Drive) and took Mr. Sharpe into custody. Officer Johnson did not find a firearm on Mr. Sharpe when he was taken into custody. Officer Johnson said neither Sergeant Davis nor anyone else stated a suspect was armed with a firearm. It should be noted, Officer Johnson went to the Tallahassee Memorial Hospital with Mr. Sharpe. Officer Johnson was present

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when medical staff stated they couldn't find a projectile in Mr. Sharpe and when the X-Ray results did not reveal any projectile.

70. Sergeant Couch was interviewed. On the night of the shooting, Sergeant (then Investigator) Couch's assignment was to go to the Tallahassee Memorial Hospital to interview Mr. Sharpe. During the interview, Mr. Sharpe identified the driver of their car as "JT," his mother's boyfriend. Further, Mr. Sharpe stated he and the driver were not in possession of any weapons or firearms. It was later learned the driver was not his mother's boyfriend, but rather his half-brother, Deon Fields.
71. K9 Sergeant Bell conducted an article search the day after the shooting but never found a discarded firearm.
72. Investigator Isom was interviewed. Investigator Isom was the on-call Homicide Unit investigator who responded to the scene. Once on scene, Investigator Isom met with Lieutenant Outlaw to get a summary of the incident. Investigator Isom went to the police station to observe Sergeant Davis' round count. Sergeant Davis did not give a proffered statement on the night of the incident. Investigator Isom stated Mr. Webster declined the opportunity. Investigator Isom interviewed Officers Schwab and Martinez on the night of the incident, and they never stated a firearm was used by Mr. Sharpe. Investigator Isom assumed, based on the circumstances, some form of "distance weapon threat" likely was present for Sergeant Davis to fire. A secondary search of the area was done to attempt to locate a weapon or firearm, but none was found. Investigator Isom conducted Sergeant Davis' CID interview on January 7, 2015. During the interview, Investigator Isom learned Sergeant Davis believed Mr. Sharpe was Mr. Hudson, Mr. Sharpe exhibited suspicious behavior while Sergeant Davis was watching him, and Sergeant Davis discharged his firearm at Mr. Sharpe because Mr. Sharpe pointed a firearm at Officer Schwab and Sergeant Davis. Sergeant Davis gave a detailed explanation of where Mr. Sharpe was, the firearm Mr. Sharpe held, and Mr. Sharpe's actions. Investigator Isom had concerns, due to Sergeant Davis stating he did not use additional lighting when he fired at Mr. Sharpe, and the location was dimly lit. Investigator Isom pointed out Sergeant Davis used the location of an orange sock as the location where Mr. Sharpe stood. A re-enactment of the shooting was conducted, where an attempt was made to re-create the situation as accurately as possible, and Investigator Isom was videotaped trying to mimic Mr. Sharpe's actions. Investigator Isom said a person would not be able to see Mr. Sharpe with a firearm at the location Sergeant Davis described. Investigator Isom's investigation also revealed the injury Mr. Sharpe stated was from being shot was unlikely a firearm-related injury and more likely a puncture wound. The evidence was evaluated by the Grand Jury, and the decision was a "No-True Bill."
73. Sergeant Boccio, a supervisor over the Violent Crimes Unit, was interviewed. On the night of the incident, Sergeant Boccio began monitoring the radio as soon as he was notified. Sergeant Boccio said neither Sergeant Davis nor anyone else stated Mr. Sharpe was armed with a firearm. On the night of the shooting, Sergeant Boccio assumed a firearm might have been used by Mr. Sharpe to cause

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Sergeant Davis to fire at him. Sergeant Boccio had the area searched the night of the incident and the following day to look for a discarded firearm. The first time Sergeant Boccio heard Mr. Sharpe had a firearm was during Sergeant Davis' CID interview. Mr. Sharpe was never charged with Aggravated Assault because the firearm was never located, and Sergeant Davis never told anyone including the Watch Commander (Lieutenant Outlaw), officers on the perimeter, or those who went to the motel to look for the suspect, about the firearm. Sergeant Boccio spoke with a member of the State Attorney's Office regarding the case and these concerns, and this member concluded there was insufficient evidence to charge Mr. Sharpe with Aggravated Assault.

74. Sergeant Davis was informed his CID interview took place on January 7, and asked if he revisited the scene before the interview. Sergeant Davis answered, "I don't specifically recall - I may have." Sergeant Davis was asked if the citizen who stated he was there on January 6, was accurate. Sergeant Davis answered, "I - I don't specifically recall that I was there. I'd have to defer to the attorney that I don't want to speak, but I'm not saying I wasn't. I do specifically recall being there on the 8th. And the other thing I'll throw out is in those two days, I hadn't - I hadn't slept a whole lot, so, okay, there's a - I realize there's the perception that we're all the strongest super heroes and Supermans. Um, this was rather traumatic and..."
75. Sergeant Davis was asked if the citizen was accurate when he claimed Sergeant Davis said, "I tried to shoot low." Sergeant Davis stated, "I would not say that to anybody. I do recall having a conversation with citizens out there on the 8th. Uh, that would be the homeowner of the white house, which would [be] to the right of the front of my vehicle, and somebody else, because there was- we saw strike marks in the dirt that day, and he had came around and was speaking, we asked if he'd mind if we look around and be there."
76. Mr. Haselden, a citizen who lives at 1211 Seminole Drive, was interviewed. Mr. Haselden did not see the shooting, but heard the gunshots and a "distraught female" at the scene talking loudly. Mr. Haselden stated his yard would be dark during that time of year, so he would have lights on around his house. At the conclusion of the interview, Mr. Haselden recalled speaking with Sergeant Davis, Mr. Webster, and another citizen (Mr. Haugdaul) outside his house on Tuesday, January 6, 2015, the day before Sergeant Davis' CID interview. During the brief talk, Mr. Haselden said Sergeant Davis stated he was the officer who fired and he "tried to shoot low." Mr. Haselden did not ask Sergeant Davis any questions about the case. Mr. Haselden did not see the suspects. Mr. Haugdaul, a citizen who lives at 1208 Seminole Drive, was interviewed. He heard the gunshots but did not witness the incident or see the suspects. Mr. Haugdaul did not recall speaking with Sergeant Davis and Mr. Webster in Mr. Haselden's yard.
77. Sergeant Davis was questioned how he gave such a detailed description of the suspect's location and events of the shooting during his CID interview, but later it was alleged he changed his account to say Mr. Sharpe was closer. While referring to a scanned copy of a drawing he drew for Investigator Isom in the exhibits, Sergeant Davis stated, "I'm referring to is the crude approximate sketch that I

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drew for Investigator Isom. To say precise is - I disagree with. Everything I stated that night is to the best of my recollection with approximates to the best I could give you."

78. In Sergeant Davis' CID interview, he gave a detailed account of where the orange sock was located and its significance to the location where Mr. Sharpe turned and pointed a firearm. Sergeant Davis included the location of the sock in his sketch and its relation to other fixed objects during the interview. Sergeant Davis said, "It is at this point, you should have found an orange sock that was facing that way.... It is this position where he's at where he [sic] starts to make his stop ... left hand turn- counter clockwise turn raising his arm, raising the weapon.... I guess it to be about forty yards." Investigator Isom asked Sergeant Davis if he saw Mr. Sharpe's foot come out of the sock. Sergeant Davis responded, "I do not see him come out of the sock. What I see, as I'm firing that movement of the turn again, planting the feet, and spinning off very quickly. [The] running back turning, planting that foot, and leaving. Which characteristically through numerous other foot pursuits, traffic incidents, where something of that nature occurs, a flip flop or sock or shoe is commonly left behind pointing in the direction in which the person was originally pointing when they made the turn." Sergeant Davis used the orange sock as a marker of Mr. Sharpe's location at the point where Sergeant Davis fired his handgun.
79. Sergeant Davis was asked again, if he changed his story on where Mr. Sharpe stood when he pointed the firearm at Officer Schwab and Sergeant Davis. Sergeant Davis answered, "No ... What I did do was be able to clarify or zoom-in the approximates, after visiting the scene the next day."
80. Sergeant Davis was asked if the information he told CID (Investigator Isom) was truthful. Sergeant Davis answered, "Absolutely, to the best of my recollection and ability at that time."
81. Sergeant Davis was asked how many times he revisited the shooting scene. Sergeant Davis said he only revisited the scene once and it was on January 8, the day after his CID interview. However, earlier in the interview, Sergeant Davis was unsure if he went to the scene prior to his CID interview and stated, "I - I don't specifically recall that I was there. I'd have to defer to the attorney that I don't want to speak, but I'm not saying I wasn't."
82. Sergeant Davis was asked if there was a chance the firearm he saw did not look exactly as he described it. Sergeant Davis answered, "Chance? Chance is a broad word. To answer the word - with the word chance, the answer's yes."
83. Sergeant Davis was asked if there was any way he could have mistakenly believed Mr. Sharpe had a firearm when he did not have one. Sergeant Davis answered, "Any way, again, that's a broad word. It is my firm belief what I saw that night was a firearm."

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84. Sergeant Davis was asked who told him the re-enactment occurred. Sergeant Davis answered, "Uh, if I recall correctly, it was with the, uh, Georgia Cappleman - we had a pre-meeting." Sergeant Davis was asked when he first saw the reenactment video. Sergeant Davis answered, "I think the first time I saw the re-enactment was here. . . . Uh, I may be wrong about that. I learned at some point in time there was a re-enactment. When it was precisely, I - I don't recall. I - I point to that because there's a point in discussion I know we went over our interview, or my CID interview, that is. Um, but I don't recall how I got back at - I was informed about it."
85. Sergeant Davis was asked if he believed Investigator Isom recreated a comparable distance the suspect traveled when he turned and pointed a firearm at Sergeant Davis. Sergeant Davis answered, "Absolutely not." Sergeant Davis referred to a drawing of the scene he drew during his CID interview in the exhibits. Sergeant Davis stated Investigator Isom's path was not the path Mr. Sharpe took, and his drawing demonstrated the proper path. Sergeant Davis also said, "The quality of the video is horrible."
86. Sergeant Davis was asked if he believed the weather conditions on the night of the reenactment were better for viewing than the night of his shooting. Sergeant Davis stated the conditions were worse and cited an e-mail from David Zierden, a State Climatologist.
87. Sergeant Davis stated Investigator Isom walked to the furthest possible point, where Mr. Sharpe could have been, in the re-enactment video. Sergeant Davis was asked how Investigator Isom could have done that when the sock's location was measured out by the Forensic Unit. Sergeant Davis stated the sock's location was used as an "approximation" and Mr. Sharpe was closer to him than the sock.
88. Sergeant Davis was asked if he was saying the sock was not where Mr. Sharpe stood when he pointed the firearm at Sergeant Davis. Sergeant Davis answered, "That was his ending location when he was going around the house." Sergeant Davis said Mr. Sharpe pointed the firearm when he was closer, and Sergeant Davis fired at Mr. Sharpe when he was closer.
89. Sergeant Davis was asked if he notified the CID investigators about Mr. Sharpe being closer than the sock, and he advised he had not.
90. Chief-Assistant State Attorney Georgia Cappleman was interviewed. C-ASA Cappleman was responsible for presenting this case to the Grand Jury. C-ASA Cappleman met with Sergeant Davis and Mr. Webster a few days before the Grand Jury. During the meeting, C-ASA Cappleman was informed Sergeant Davis planned to change his statement to say Mr. Sharpe was closer than he originally told Investigator Isom in his CID interview. When C-ASA Cappleman was asked if Sergeant Davis' statement of the events of the shooting changed, C-ASA Cappleman stated Sergeant Davis did change his statement in regard to the location where Mr. Sharpe stood. C-ASA Cappleman stated she didn't know why

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Sergeant Davis changed his statement or whether he learned about the re-enactment, because she had not told him or shown him the video.

91. Sergeant Davis was asked if he believed an officer had a duty to warn other officers of dangers they observe. Sergeant Davis answered, "Yes. I believe I did those things that night."
92. During the Internal Affairs Unit interviews, no officer was able to state Sergeant Davis ever mentioned a suspect was armed with a firearm.
93. None of the citizen witnesses stated they saw the suspect with a firearm.
94. A review of the radio recordings, from the time this incident began until it concluded was conducted for the Southeast District radio channel. The review revealed Sergeant Davis made several radio transmissions during the incident but did not say either suspect had a firearm or was armed with any weapon.
95. Sergeant Davis and Mr. Webster were contacted at a later date to review the Marathon Gas station video. After reviewing the video, they chose to not go back on record to make an additional statement unless the Internal Affairs Unit investigators would agree to only ask questions about the video. Sergeant Davis and Mr. Webster were told there would not be an agreement to only discuss a particular portion of the incident. Sergeant Davis and Mr. Webster declined the opportunity to go back on record.
96. Sergeant Davis was untruthful in his Internal Affairs Unit interview when he claimed he told Lieutenant Outlaw, Officer Schwab and Officer R. Clayton that Mr. Sharpe was armed with a firearm. This indicates Mr. Sharpe did not possess a firearm at the time of the incident.
97. In totality, no items indicative of firearm possession (holster, ammunition, magazine, etc.) were found in the car; Mr. Sharpe denied he or Mr. Fields had a firearm; no officer or citizen ever saw Mr. Sharpe with a firearm; no firearm was located on Mr. Sharpe's person, no firearm was found in the area where Mr. Sharpe was arrested; no firearm was found along Mr. Sharpe's path-of-flight during the canine track; no firearm was ever located during additional article searches and neighborhood canvasses; and Sergeant Davis holstered his firearm during the incident when he claimed to be preparing for a potential flanking assault by Mr. Sharpe. These factors, combined with the fact that no officers testified Sergeant Davis told them Mr. Sharpe had a firearm; there were no radio transmissions by anyone (including Sergeant Davis) about Mr. Sharpe possessing a firearm; and Sergeant Davis' first document claim of the firearm was 72 hours later and only after Mr. Sharpe (not Mr. Hudson) was arrested indicate Mr. Sharpe did not have a firearm at the time of the incident. Additionally, the statements by Investigator Isom, FSS Yao, and several citizens along with the re-enactment video indicate the lighting conditions and distance make it highly unlikely Sergeant Davis could have seen a firearm as he claimed.

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Conclusion:

Based on the information gathered during this investigation, it is the recommendation of Investigator Boykin the allegation against Sergeant Davis for **Violation of General Order 46: Rules of Conduct – Unbecoming Conduct (in regard to impeding a CCU case)** be termed as follows:

Sergeant Brian Davis – Not Sustained

Based on the information gathered during this investigation, it is the recommendation of Investigator Boykin the allegation against Sergeant Davis for **Violation of General Order 46: Rules of Conduct – Neglect of Duty (in regard to failing to inform officers suspect had a firearm or he observed the murder suspect at the hotel)** be termed as follows:

Sergeant Brian Davis – Not Sustained

Based on the information gathered during this investigation, it is the recommendation of Investigator Boykin the allegation against Sergeant Davis for **Violation of General Order 46: Rules of Conduct – Giving Falsified Information (in regard to giving the information Mr. Sharpe had a firearm during the incident and exhibited suspicious behavior at the Motel 6 and Marathon Gas Station)** be termed as follows:

Sergeant Brian Davis – Sustained

Based on the information gathered during this investigation, it is the recommendation of Investigator Boykin the allegation against Sergeant Davis for **Violation of General Order 63: Officer Involved Action Resulting in Serious Injury or Death – Involved Officer On-Scene Statements (in regard to Sergeant Davis' on-scene statements to Lieutenant Outlaw)** be termed as follows:

Sergeant Brian Davis – Exonerated

Based on the information gathered during this investigation, it is the recommendation of Investigator Boykin the allegation against Sergeant Davis for **Violation of General Order 60: Use of Force (in regard to the Sergeant Davis' suspect identification, stated observations, and the actions of Mr. Sharpe being justification for the use of deadly force)** be termed as follows:

Sergeant Brian Davis – Sustained

I, the undersigned, do hereby swear, under penalty of perjury:

- That I have read the foregoing document and, to the best of my knowledge, information, and belief, the facts stated therein are true and accurate; and
- That, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes.

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Investigator Isaac Boykin

Tallahassee Police Internal Affairs Unit

STATE OF FLORIDA
COUNTY OF LEON

Sworn to (or affirmed) and subscribed before me this 12th day of Nov, 2015, by Isaac Boykin, Internal Affairs Investigator for the Tallahassee Police Department Internal Affairs Unit, who is personally known to me or provided _____ as identification.

[Signature]
Notary Public or Law Enforcement Officer
My Commission Expires:

Legal Advisor's Signature:

Assistant-I. A. Commander's
Signature:

Sgt. Al W #282 08/12/15

I. A. Commander's
Signature:

Lt. S. Jany #152 08/12/15

Dispositions:

(Allegation - Rules of
Conduct - Unbecoming) -
Sustained -
Sergeant Brian Davis

NOT SUSTAINED

Chief's Signature:

[Signature]

Date Concluded:

9/18/15

(Allegation - Rules of
Conduct - Neglect of Duty)
- Not Sustained -
Sergeant Brian Davis

Chief's Signature:

NOT SUSTAINED
[Signature] 9/18/15

Date Concluded:

9/18/15

(Allegation - Rules of
Conduct - Giving Falsified
Information) - Sustained -
Sergeant Brian Davis

Chief's Signature:

NOT SUSTAINED
[Signature] 9/18/15

Date Concluded:

9/18/15

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(Allegation - Officer
Involved Actions – Involved
Officer On Scene
Statements) – Exonerated –
Sergeant Brian Davis
Chief's Signature:
Date Concluded:

EXONERATED
Michael GOR
9/15/15

(Allegation - Use of Force –
Sustained –
Sergeant Brian Davis
Chief's Signature:
Date Concluded:

NOT SUSTAINED
Michael GOR
9/18/15